Case and Comment
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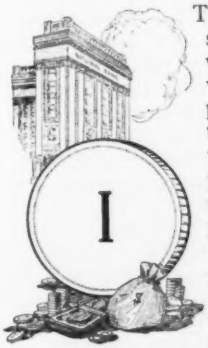
Banking and Currency Reform

BY HON. ROBERT W. BONYNGE
of the Colorado Bar; Member National Monetary Commission



IT IS perfectly safe to say that there is no well-informed citizen who believes that our present banking system is at all adequate to our needs. All the political parties, by their platforms of this year, recognize it is inefficient. This, in itself, constitutes some advance, and perhaps we should congratulate ourselves that we have made that much progress. It is not a political question. It never should be treated as a political issue. The people do not and cannot be made to divide upon it along political lines.

Present Banking System Defective.

It is unanimously admitted that our present method of dealing with reserves is both antiquated and costly. Our scattered cash reserves are ineffective for use in emergencies. They restrict the loaning power of banks at the very time when, under a properly organized system, the reserves would and should be freely used, and credit liberally extended to all solvent and deserving business men. We compel our isolated banks to adopt measures for their own self-preservation which necessarily intensify, if they do not produce, panic conditions. We force a portion of the reserves of practically every bank in the country and the surplus moneys of all sections to be concentrated in New York city. There, at certain seasons of the year, they can only be profitably employed by being loaned out on call on stock-exchange securities.

The plentiful supply of money for call loans tends to promote dangerous speculation, leading to financial disturbances when the cash reserves are again required in the regular channels of trade and commerce. Our method of dealing with the bank reserves is unquestionably more responsible than anything else for the weakness of our banking system.

The need for a bank-note currency which shall automatically respond to the constantly changing demands of commerce is obvious to all. The American Bankers' Association and numerous commercial bodies in all parts of the country have, for many years, been demanding that some provision should be made for what has become popularly known as an "elastic currency." By many it has been believed that the failure to provide such a currency is the chief defect in our existing monetary sys-

tem; but a more careful and analytical study of conditions has demonstrated that it is only one feature of the fundamental weakness that attaches to our entire credit system and which may, in one word, be expressed as its "rigidity."

Issuance of Currency.

The experience of the world conclusively establishes that the function of note issue cannot be exercised either by a government, a government owned bank, or numerous banking institutions, without disastrous results. With the exception of Russia, every first-class power has ceased to issue credit currency, either directly or through a government owned institution. Those who contend that the issuance of currency is fundamentally a government function fail to draw any distinction between money of ultimate redemption with full legal-tender power, and credit currency, which is only a promise to pay lawful money. They also overlook the fact that the most important and most elastic currency of the United States and of Great Britain is the deposit currency, issued by the people themselves, by checks drawn on their deposit accounts. The government may and should, in the public interest, regulate the issuance of bank-note currency, provide the basis upon which it may be issued and the agency or agencies to issue it. But if the monetary experience of the world proves anything at all, it is that a currency issued directly by the government or through a government owned institution never has and never can, from the nature of things, be made responsive to business conditions. Its amount is and must be determined by statutory enactments which are inflexible. Statutes cannot be altered to meet constantly changing business conditions. The result is that a currency issued by a government is always dependent upon the government's financial needs, rather than business requirements. It expands, but seldom contracts. Our own experience with the greenbacks ought to satisfy us on that point. Some agency, properly constituted, under government supervision and regulation, must, consequently, be created to exercise, in the people's interest, this important function.

Necessity of Co-operation.

At the present time we have only local banking institutions. They are indispensable to our development. But it is equally necessary that we should have some financial organization of a national character to represent us nationally and internationally in matters affecting the credit and standing of the United States as one of the great financial powers of the world. That organization should also be given the necessary powers and functions to insure effective co-operation between our many thousand isolated banking units for their own mutual protection and the utilization of our numerous banking resources.

The three fundamental defects in our monetary system are, then, the unscientific treatment of our cash reserves, the rigidity of our entire credit system, and the lack of effective co-operation between our banks. They are now pretty well understood to be the responsible causes for the many bank panics that have disgraced us in the past, and from which all other great commercial nations have been exempt for practically half a century.

The urgent necessity for some kind of co-operation between the banks of different localities, for certain purposes, has naturally led to the formation of clearing-house associations. They now number 242. They are all voluntary associations. Their manner of organization, including the admission of new banks to their privileges, the selection of their officers and managers, the power and functions to be performed by them,—are all regulated not by statutory provision, but entirely according to the by-laws and constitution adopted by each association. As new conditions from time to time have arisen, requiring co-operative action on the part of the banks, these clearing-house associations have, through a natural process of affiliation, extended their field of operations. They have now become institutions without which our commerce could with difficulty be conducted. They have rendered in the past invaluable services, not only in fostering trade, but in furnishing aid and assistance in times of emergency. But they have never been able, because of the lack of necessary legal power and of proper or-

ganization, to prevent periodical suspensions by the banks of cash payments. Their greatest services in such emergencies have been in mobilizing temporarily the resources of their members, and thereby tiding the business of the country over until the financial storm had spent itself. Notwithstanding the eminent services these associations have rendered, their right to exercise some of the powers they claim has been gravely questioned, and has recently been the subject of investigation before a congressional committee known as the "Money Trust Investigation." The regulation by the New York clearing house of collection charges on out-of-town items, and the suspension of banks from the association who violate the established rule, has been questioned as being in restraint of trade and a violation of the anti-trust law. It has been argued that their ability, under their rules, to refuse a bank clearing-house privileges, enables them to keep any group of men out of the banking business in New York city, because, without clearing-house privileges, successful banking in New York would be impossible. It is said that they thus exercise the power of life and death over the banks. However wisely these powers may have been exercised in the past, the fear that they might at some time be improperly used is giving rise to a demand that a certain part, at least, of the business of clearing-house associations should be regulated by law. Few, if any, contend that some form of affiliation between the isolated units of our banking system is not necessary. The very existence of the clearing-house associations, the functions they perform, and the services they have rendered to the business of the country, all abundantly and conclusively establish the absolute necessity for some legal form of co-operation for certain designated purposes between our isolated banking units. The method of creating that agency or institution, regulating who shall be entitled to membership in it, and upon what terms, what privileges therein membership will confer, the manner of selecting those who are to manage its affairs, so as to give every section of the country and every legitimate industry some voice in its management, insuring its operation absolutely free from control for sectional or selfish purposes, defining strictly its powers and functions, and how and under what circumstances they may be exercised, and giving to the government, through adequate representation upon its board of directors, the fullest and freest opportunity for supervision of its affairs and management, should and must be provided by statutory regulations.

Proposed National Reserve Association.

These are among the objects sought to be accomplished by the creation of the proposed National Reserve Association. By its establishment, we would have an institution under government regulation and supervision, which could safeguard our cash reserves and make them available for use; issue and furnish a properly secured and safe currency that would automatically expand and contract in response to business requirements; act as fiscal agent of the government; keep the government's working balance in the channels of trade; insure co-operation of all the banks in the public interest, and enable them to utilize our enormous banking power. These objects are all admittedly desirable of attainment, and it is contended that they cannot be secured except through some similar co-operative agency as that proposed by the creation of the National Reserve Association.

The plan in concrete form for its creation has now been before the country for nearly a year. During that time very few objections to any of its essential or fundamental principles have been advanced. There have been strong objections urged to some of the details of the plan by a few economists and bankers of undoubted ability, but no other or different plan in concrete form has been suggested by anyone that has received any serious consideration. There are some who still refer to the Reserve Association as a central bank, although there is no more similarity between the two than there is between a clearing-house association and a bank. Both have something to do with the banking business, but there their similarity ends. The field of operations of each is clearly marked and distinct. A central bank, as it is un-

derstood in this and every other country, is an institution having branches throughout a given country, each engaged in a general banking business, receiving deposits from the people at large as well as from other banks, making loans to individuals and to corporations, acting as the government's fiscal agent, and usually having the power of bank-note issue. Such have been all the central banks that have ever existed, either in this or any foreign country, or which now exist. The proposed National Reserve Association radically differs from all such institutions in the very important respect that it is not to engage in the general banking business. In fact, in that sense it is not a bank at all. Neither it nor its branches are to compete with state or national banks in any field of operations in which they are now engaged; it is simply to be an affiliation or union of all the eligible banks of the country to perform for them and under statutory provisions, and through officers and managers—whom they will select—certain necessary duties and functions that can only be performed by some organization of a national character. It is to have branches with local self-government to represent smaller subdivisions of the country. It would act as the government's fiscal agent, and as the custodian of a part of the reserves of its members. To it would be confided, under governmental supervision and regulation, the power of bank-note issue. We would thus secure all the benefits to be derived from the organization of a central bank without any of the disadvantages which made the old First and Second Banks of the United States unpopular, and finally led to their overthrow. We would have an institution built upon American Democratic principles, and modeled absolutely upon our political institutions. But it is said that the proposed machinery is complicated and cannot be easily understood.

Organization of Reserve Association.

The difficulty in understanding the plan of organization of the Reserve Association, I have found, has been easily removed by comparing it to our governmental organization.

It is proposed that all banks of the country coming up to the prescribed standard established should be entitled to become members of the association. They would become members by subscribing to its capital stock. The capital would be a flexible amount and would grow with the increase of banking capital in the country. Each eligible bank would be entitled to subscribe for an amount of the capital stock of the association based upon the capital of the subscribing bank. There would be no other stockholders than the banks of the country, and no one bank could subscribe for more than its allotted proportion. The stock would, therefore, be as widely distributed as the banking capital of the country. The whole plan is built upon maintaining the independence and integrity of the individual banking units. To secure that end most drastic provisions have been made to prevent the stock of the Reserve Association passing under the control of any individual or group of individuals. It is to be nonassignable. It cannot be sold or hypothecated, nor can control of the stock of the association be acquired by the ownership of a chain of banks, because it is provided that if a series of banks are owned by the same person or persons, that then each of those banks in the series should not be entitled to separate representation in the Reserve Association, but that all such banks for voting purposes should constitute only one bank, and vote accordingly.

After the different banks of the country had purchased their proportionate amount of the stock of the association, the subscribing banks of a certain limited territory would first be grouped into what are termed "local associations." Each of such associations would be required to have at least ten banks with a minimum capital of $5,000,000. The local association would have local self-government through boards of directors to be chosen by the banks composing the local associations. The local associations would, therefore, be formed much in the same manner as cities and towns are united to form counties.

The local associations would then be organized into what are termed "district

associations," exactly as the counties make up the states of the Union. There would be fifteen such associations in the country at large. Each would be organized around a commercial center or city, and all territory naturally tributary to such city would be included in the district. The different local associations within that territory would constitute the district association. The unit for the district would thus be the local association. Each district association would have local self-government through a board of directors to be chosen by the constituent local associations. In each district there would be a branch of the Reserve Association having, for that district, all the domestic powers of the Reserve Association.

To secure the equal advantages of the association for all parts of the country, it is provided that there can be only one such district association in the New England states; two in the eastern; four in the middle western; four in the southern, and four in the far western and Pacific states.

The National Reserve Association would be composed of the fifteenth district association, and would have its head office in Washington. The unit in the case of the National Association would be the district associations. The national body would have its own board of directors to be chosen by the district associations, except the seven *ex-officio* members, consisting of three cabinet officers, the Comptroller of the Currency, the governor, and the two deputy governors, of the Reserve Association.

The parallel, therefore, between the plan of the organization of the Reserve Association and the manner in which our political subdivisions are created and then united by progressive steps from the city to the county, the county to the state, and the state to the nation, is complete and perfect. One is no more complex than the other, and in operation it is safe to assume that the affiliation of our banks on a plan modeled upon our political subdivisions would work as smoothly as our governmental machinery.

The plan of organization is certainly democratic and American in its scope and character.

Boards of Directors.

The methods suggested for the election of the boards of directors of the different organizations composing the Reserve Association is conceded to be novel, and at first may appear to be somewhat complicated. The ends sought to be accomplished are to provide self-government for these different bodies, to secure boards of directors fairly representative of the different sections of the country, and of the industrial and commercial interest of all sections, and to keep the boards free from political and financial control or domination. The method proposed gives to each bank, large or small, in the local association, which is the initial organization upon which the Reserve Association is built up, an equal voice in the selection of a majority of its board of directors. A minority representation is provided on all the boards for the stockholding interest based upon the amount of stock owned in the Reserve Association.

Auxiliary Organizations.

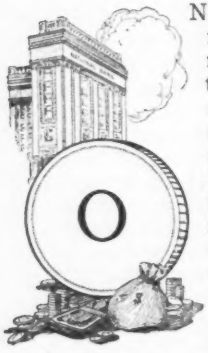
It must ever be remembered that the Reserve Association is planned to meet the commercial needs of the country. It will not, nor is it contended that its establishment would, fulfil all our financial requirements. We should have agricultural credit institutions and banks that engage in furnishing capital for the development of our different industrial enterprises. They should be as they are in other countries, particularly Germany and France, separate organizations, and should be clothed with other and different powers to meet the legitimate needs of industry for long-time investment. The establishment of an institution to provide for our commercial needs will inevitably pave the way, as was the case in foreign countries, for the creation of other banking organizations especially designed to take care of our other financial necessities.

Bills of Exchange

BY J. LAURENCE LAUGHLIN, PH.D.

Professor of Economics, University of Chicago

Ed. Note.—[Professor Laughlin is a leading authority on the subject of banking and monetary reform. He prepared for the government of San Domingo, on invitation, a scheme of monetary reform which was adopted. He has lectured on economics at Harvard University, Cornell University, the University of Chicago, where he is now head of that Department, and at the University of Berlin and the Government Institute in Cologne. He is the author of many works on political economy and allied subjects. Under his supervision the text-book of the National Citizens' League, "Banking Reform," has recently been issued.]



ONE of the grave defects of our antiquated monetary system is that our national banks are not authorized to accept time bills of exchange. The national bank act authorizes banks organized under it to carry on their business "by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin and bullion; by loaning on personal security." European banks have similar powers. But they have another, omitted from those accorded to our banks, perhaps through an oversight when the law was framed during the Civil War. It is "to accept time drafts drawn on them on behalf of their customers."

"It is settled," says the Supreme Court (California Nat. Bank v. Kennedy, 167 U. S. 362, 42 L. ed. 198, 17 Sup. Ct. Rep. 831), "that the United States statutes relative to national banks constitute the measure of the authority of such corporations, and that they cannot rightfully exercise any powers except those expressly granted, or which are incidental to carrying on the business for which they are established."

It was held in the case of the Merchants' Nat. Bank v. State Nat. Bank, 10 Wall. 604, 19 L. ed. 1008, that under the powers a national bank may certify checks; in the case of People's Bank v. Manufacturers' Nat. Bank, 101 U. S. 181, 25 L. ed. 907, that it may, in selling or rediscounting paper, indorse it; in the same case, that it may, for the purpose of securing payment of a debt due it, guarantee the payment of notes delivered to it (but not payable to it) by the debtor, in order that the bank may then negotiate them to another; and a bank may permit an overdraft, because this is merely another way of lending money.

The Supreme Court has never passed upon the question whether a national bank may lend its credit; but it has been decided adversely in many cases in the state and lower Federal courts. Particularly has it been held that a bank cannot make accommodation acceptances and guaranties for the benefit of a third person.[1]

A great legal authority (Byles, Bills of Exchange) says that "it is probable that a bill of exchange was in its original nothing more than a letter of credit from a merchant in one country to his debtor, a merchant in another, requiring

[1] See Seligman v. Charlottesville Nat. Bank, 3 Hughes, 647, Fed. Cas. No. 12,642; National Bank v. Atkinson, 55 Fed. 465, affirmed in 10 C. C. A. 87, 27 U. S. App. 88, 61 Fed. 809; Commercial Nat. Bank v. Pirie, 27 C. C. A. 171, 49 U. S. App. 596, 82 Fed. 799; Merchants' Bank v. Baird, 17 L.R.A. (N.S.) 526, 90 C. C. A. 338, 160 Fed. 642; Norton v. Derry Nat. Bank, 61 N. H. 589, 60 Am. Rep. 334; National Bank v. Sixth Nat. Bank, 212 Pa. 238, 61 Atl. 889; Thilmany v. Iowa Paper Bag Co. 108 Iowa, 333, 79 N. W. 68; First Nat. Bank v. American Nat. Bank, 173 Mo. 153, 72 S. W. 1059; First Nat. Bank v. Monroe, 135 Ga. 614, 32 L.R.A.(N.S.) 550, 69 S. E. 1123; Fidelity & D. Co. v. National Bank, 48 Tex. Civ. App. 301, 106 S. W. 782.

him to pay the debt to a third person, who carried the letter, and happened to be traveling to the place where the debtor resided. . . . It was found that the original bearer might often, with advantage, transfer it to another, and the assignee was perhaps desirous to know beforehand whether the party to whom it was addressed would pay it, and sometimes showed it to him for that purpose; his promise to pay was the origin of acceptances."

Acceptance, then, is nothing else than the promise of the party on whom the bill is drawn that he will pay it at due date. This he signifies by writing across its face the word "accepted," with his name and the date.

Or, the debtor against whom the bill is drawn may have an arrangement with his bank, whereby it agrees to accept the bill, thus putting its credit behind its customer, and making the bill negotiable wherever the bank is known. This is a banker's bill.

Let us consider a concrete example: A, a cotton factor in New Orleans, sells a consignment of the staple to a spinner in St. Gall, Switzerland, B. We will assume that B has established a credit in London with C, a bank, or an accepting house. This is necessary because all our international trade, or the great bulk of it, must be financed through London, which is the world's banker, owing to its unrivaled monetary system. The bill of exchange, to which are attached the documents showing that the cotton is in transit and is properly insured against loss, is sent to C, which writes its acceptance across the face of it. The bill then becomes an instrument with a national and an international market abroad, instantly convertible into cash. The interval between production and consumption is thus bridged. A is not required to wait for his money until the cotton reaches B; and B does not have to pay for it until he has had time to receive it.

In this country, the promissory note is the instrument commonly dealt in by our national banks. Its character is often purely local, because the merchant or manufacturer who makes it may not be known outside his community. Efforts to rediscount it with other banks are viewed, in many cases, with distrust. Its use deprives us of a rediscount system, such as European countries enjoy.

This defect in our banking laws inflicts great loss on our business men, keeps interest rates at an unnaturally high level, and shuts out millions of foreign capital from our shores. It explains why American borrowers of the best standing pay 5 per cent for three months' money, while French bankers are likely to be lending millions in Germany at 4 per cent.

The same defect in our laws produces another defect quite as serious. The local character of promissory notes unsuits them as an investment for that mass of our banking funds which must remain liquid. The hundreds of millions of reserves which country banks redeposit in New York are lent on the Stock Exchange, usually at a much lower rate of interest than that charged to mercantile borrowers; because, in the lack of a market for commercial paper, loans based on stocks and bonds form our only large call loan market. These funds, withdrawn from the channels of legitimate trade, go to stimulate speculation. If there be an unexpected demand for cash from the rural districts, the stocks and bonds put up by Wall street speculators as collateral for call loans are dumped upon the market, which may collapse under the strain, as it did in 1907.

In any event, we have every year the ridiculous spectacle of the great New York banks financing a bull market and at the same time financing the movement of the crops. Bumper crops mean bull markets. The speculators discount prosperity. A double burden is thus thrown upon the banks, not through any fault of theirs, but through a fault in the law under which they operate. In the autumn, money is always "tight."

Now, the cost of "tight" money falls upon the merchant and the producer, not upon the banker. In the end, the consumer pays it. For it is clear that the cost of borrowed capital is necessarily an element in the cost of production in every large business. If credit costs more, the expenses of carrying on the business are correspondingly increased. In conse-

quence, higher rates must be charged for the commodities in whose production or distribution bank credit is used, whether the commodity be St. Louis shoes, Kansas wheat, or Georgia pine.

A rediscount market for standardized commercial paper should be included in any plan of banking reform adopted in the United States. Such a system would attract a stream of gold from abroad, and would substitute a solid foundation for such speculative foundation as now lies under our banking system. It would lower interest rates to legitimate business. It would ease the money market in times of seasonal strain.

It is generally agreed that, in addition to a rediscount market, our banking reserves should be mobilized, to put the strength of all the banks behind each of them; and that there should be created a co-operative agency, to hold these reserves, to act as fiscal agent of the government, to issue notes secured by gold and commercial paper, to deal in gold, and to establish foreign agencies. It is for the Congress to work out a way of accomplishing these things. Until they have been accomplished, our banking system must continue an object of derision, when not an object of suspicion and apprehension, among those countries now blessed with scientific systems.

J. Laurence Laughlin

"In the consideration of this question we want to lift it out of the mire of partisan politics. We want to realize that whoever contributes materially to the consummation of the purpose to relieve the country from the conditions under which the people live, will erect for himself a monument more lasting and more honorable than an engagement in political disputes. This is a great country of ours. I have traveled over it from the iced lakes of the North until I find myself to-day on the flower-lined Gulf coast. From the Atlantic to the Pacific I have seen the extent of its territory, the magnitude of its enterprises, the heroism of its people. I have stood at the foot of a great mountain that seemed to lift its head into the very blue of heaven, and I have said, 'How grand is the mountain.' I have looked out over the valley with its fields and farms, running streams and homes and flowers, and I have said, 'How beautiful are the valleys.' But, my countrymen, let us not forget that our country's manhood is grander than its mountains; its womanhood is more beautiful than its valleys; and its patriotism is sweeter than the fragrance of flowers.

"To this manhood, to this patriotism, enlightened, intelligent, and honorable, the National Monetary Commission intends to submit the result of its labors."—*Hon. Lemuel P. Padgett.*

During that period the maximum rate of discount was 10 per cent, and that days it was 4 per cent, and in 1908 for 14 days it was 3½ per cent, and all the

Necessity of Banking and Currency Reform

BY HON. LEMUEL P. PADGETT

Member of the Tennessee Bar, Representative in Congress and Member of National Monetary Commission

PERMIT me to say in the outset that I do not know of any question that is of more vital importance, that is of deeper concern, of more intense interest to the American people, and of more pressing necessity, than a reformation of the banking and currency system of the United States. It is a question that in its ramifications affects every industry and every enterprise and energy of our people.

Panics.

When we recall the recurring collapses of credit, the breaking down of industries, the prostration of enterprises, the giving way under pressure of our financial institutions, our credit institutions at the very time that they are most needed to support industry and to maintain credit in this country; when we recall the disasters and the suffering of the great body of the people following such conditions,—it seems to me that it is necessary to emphasize the overwhelming importance, the overpowering necessity, of a system of banking and currency that shall be predicated upon correct scientific principles.

We have had panics in this country so frequently and with such recurring certainty that we scarcely pass out of one panic until it is a common saying upon the streets that we are getting ready to go into another. In the summer of 1908, when a subcommittee of the National Monetary Commission were abroad investigating and studying this question, in a conversation with Mr. Campbell, the Governor of the Bank of England, he said to me that it was the fixed policy and practice of the Bank of England to furnish money at some price at all times to meet every proper demand. The importance of this statement impressed me so deeply that I began to think about it. I want to repeat to you by way of emphasis what he said to me,—that it was the fixed policy and practice of the Bank of England to furnish money at some price at all times to meet every proper demand. And my mind began to run back over the history of this country; and the fact stood out before me that there has never been a time when we had an institution in this country that could maintain that policy and that practice. And I began to think that if we did have in this country an institution of that character what would be its benefits and its blessings.

Discount Rates.

I began to look further and asked myself the question: At what price has the Bank of England furnished money at all times to meet every proper demand? That inquiry brought to mind some facts that in their power are more eloquent than statement, and carry with them a conviction of thought that overshadows any flight of oratory.

Beginning with the reorganization of the Bank of England, September 5, 1844, to December 31, 1900, a period of 56 years, three months, and twenty-six days, or a total of 20,570 days, let me give you some figures.

During that period the maximum rate of discount was 10 per cent, and that only in two years. During the panic of 1857 the discount rate of 10 per cent continued for 45 days, and during the panic of 1866 for 96 days, making in the 56 years a total of 141 days in which there was a discount rate of 10 per cent. The discount rate was 6 per cent and above for 2,040 days. It was below 6 per cent 18,530 days out of 20,570 days, or nine tenths of the time. It was 3 per cent and below 11,340 days. It was 2 per cent 3,409 days. It was 6 per cent and below 6 per cent 19,398 days out of 20,570 days. It was above 6 per cent only 1,172 days.

But let us take, if you please, the period from 1901 to 1910, a period of 10 years. The maximum rate of discount was 7 per cent, and during that 10 years it continued at 7 per cent only 56 days. During the 10 years the average rate was 3.61 per cent. If we had an institution in this country that could steady the market rate of money and could furnish money to the industry and enterprise, and support the energy and the industries of the country, at a price such as I have called to your attention, as has been the practice and the fixed policy of the Bank of England for the 67 years past, what would it be worth to the labor, to the enterprise, to the industry of this country in all of its varied and multiform phases?

But I began to look a little further. I turned to the Bank of France and I found that it maintained a similar policy and practice. And I took the same period of time, from September 5, 1844, to December 31, 1900, and the maximum rate of the discount was 9 per cent for 16 years during the 56 years. The rate of discount was 6 per cent and above for 1,542 days, below 6 per cent 19,028 days, 3 per cent and below 10,162 days, 2 per cent 2,027 days, 6 per cent and below 20,198 days, above 6 per cent 372 days out of 20,570 days.

Take the years 1901 to 1909, inclusive. The maximum rate during that period was 4 per cent, the minimum was 3 per cent. The rate was stationary at all times at 3 per cent except in 1907, when for 231 days it was 3½ per cent, for 54 days it was 4 per cent, and in 1908 for 14 days it was 3½ per cent, and all the remainder of the 10 years it was 3 per cent.

Take the Bank of Germany, and in comparing the Bank of Germany we must bear in mind that the present organization, the Reichsbank, began business January 1, 1876, but its predecessor which it succeeded and the business of which it took over was the Bank of Prussia. Running back with the two banks to September 5, 1844, and coming down to December 31, 1900, the maximum rate of discount was 9 per cent for 63 days in 1866. The rate was 6 per cent and above 1,158 days; below 6 per cent, 19,142 days; 4 per cent, 11,077 days; 3 and 3½ per cent, 2,818 days; 6 per cent and below, 20,142 days; above 6 per cent, 428 days out of a total of 20,570 days.

Take the period from 1901 to 1909, inclusive. The maximum rate was 7½ per cent for 65 days; the minimum rate was 3 per cent for 333 days. The rate was 3½ per cent for 466 days; 4 per cent 1,116 days; or practically two thirds of the time 4 per cent and below.

Now these are not accidents. During these fifty-seven years of the financial history of those countries it did not just happen. It was not simply a fortuitous circumstance that these rates of interest or discount prevailed in those countries; but it was because in the light of experience, in the study of experiment, because there has been more experimentation in the world on the question of finance and banking perhaps than any other question in the world—more wild experiments, more wild theories advanced, all of which brought disaster—but out of these experiments and the study of these questions these people have reached a conclusion that was based upon correct scientific principles that brought stability, and enabled these institutions to maintain the credit and support the industries of their respective countries at a fair and reasonable and just rate of charge for the use of money.

I turn to the report of the comptroller, containing a statement of the rates of the national banks of the United States for the year 1910. In the New England

states the average interest on time loans was 5.53 per cent; the eastern states, 5.66 per cent; the southern states, 7.99 per cent; the middle states, 6.55 per cent; the western states, 9.27 per cent; Pacific states, 7.83 per cent; or a general average for the United States of 7.13 per cent.

And then I looked for the state banks, and I found that in New England the rate was 5.50 per cent; the eastern states, 5.85 per cent; the southern states, 8.08 per cent; the middle states, 6.69 per cent; the western states, 10.02 per cent; and the Pacific states, 9.37 per cent, or an average for the United States of 7.585 per cent.

Organization of Credit.

Are there not lessons for us, in the comparison of these figures? If the industries, if the enterprise, if the energy of the people in France, in Germany, in England, can be supported, can be maintained, can operate upon a credit that is unbroken, unyielding, undisturbed by panic, can we not have the wisdom, the courage, and the patriotism to establish in this country an institution for our people that will be a shelter in time of storm, for our people when pressure comes and panic is threatened? I asked myself the question, If we had institutions in this country founded upon correct, intelligent, scientific principles that would organize the credit of this country, that would correlate the resources of this country, that would bring into harmony and unity of purpose the great credit of this country and make it available, what would be the effect upon the industries of this country?

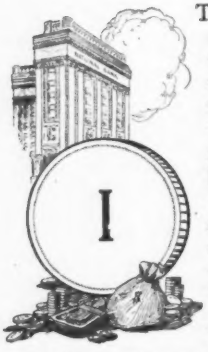
What would be the effect in this country, among the farmers if they had such an institution,—those who produce cotton, if you please, those who raise the thirteen, fourteen, or fifteen or sixteen millions bales of cotton each year, those who produce the six or seven or eight hundred millions of bushels of wheat, or the three billion bushels of corn, or those, if you please, who raise the millions of head of sheep or of hogs or of cattle that graze upon a thousand hills and feed in ten thousand valleys—if these farmers could feel that in the springtime as they go forth to plant they could be assured of a safe, a stable, and a certain money market that would support and maintain their industry, and permit them to harvest and sell in the markets in stability and safety? What would be the effect in this country, upon the manufactures—the cotton manufacturers, the woolen manufacturers, the iron manufacturers—the men who weave, the men who bring together and employ labor and produce merchandise—if they knew that at all times, under all circumstances, there would be in their possession the power and the capacity and the opportunity to get money at a reasonable price to meet every proper demand?

The banker is not the man that is most interested in this question. The banker can see the panic coming and can forefend against it. He can curtail his loans; he can call in his credits. The men who are most interested in this question, far more than the bankers, are the manufacturers and the farmers, the stock raisers, the transportation companies, and the laborers of this country, who depend upon the stability and security and reasonableness of the credit institutions of this country that underlie and support and maintain the credit system and the industrial systems of the nation.

We need an institution so organized that it can use the business and commercial paper of the country, which represent largely the aggregate commercial wealth of the country, and upon these credits issue a solvent currency redeemable in gold upon demand to meet the legitimate requirements of trade at all times and under all circumstances. England, France, Germany, and other countries of Europe have successfully solved this question, and have institutions which for generations have not failed to meet promptly and at a reasonable charge every proper demand made upon them for ready money; and there is no valid reason or just excuse why we should not have in this country such an institution; and when I remember the many disasters and the fearful wreck and ruin wrought in this country in the past, and bear in mind the intelligence and patriotism of the American people, I am constrained to say that we must have, and we shall have, such an institution in this country.—From address before Bankers' Convention at Knoxville, Tenn.

Prohibition of Private Banking

BY GEORGE H. PARMELE



IT is unfortunate that so important a question as the power of a state to prohibit banking by private individuals should have been summarily disposed of by the United States Supreme Court as it apparently was in the case of Shallenberger v. First State Bank.[1] The opinion of Mr. Justice Holmes which does not exceed a dozen lines, states that the Nebraska statute there under review forbids banking except by a corporation formed under the act, and provides for a guaranty fund, and the opinion concludes with the statement that the decree of the circuit court holding the statute unconstitutional must be reversed for the reasons stated in the Haskell Case, decided the same day,[2] which upheld the constitutionality of the bank guaranty provisions of the Oklahoma statute. In view of the fact that the circuit court in the Shallenberger Case[3] expressly refrained from deciding, as an independent question, whether it is within the power of a state to restrict the business of banking to corporations, and place its decision that the act as a whole was void, on the ground of the unconstitutionality of the bank guaranty feature, which was the inducement to its passage, it may be questioned whether the decision of the Supreme Court should be regarded even as a technical authority on the former point, especially as it does not appear from the report of the case that any of the complaining parties were private individuals and so in a position to assail this feature of the statute. The report of the case, however, does show that the point was argued by counsel, at least in the briefs; and some color is given to the view that the court did intend to decide the question and to decide it in the affirmative by certain passages in the opinion in the Haskell Case. After observing that the question as to constitutionality of the bank guaranty provision was not much helped by propounding the further question, whether the right to engage in banking is or can be made a franchise, Justice Holmes remarked that as the latter question had some bearing on the former and as it would have to be considered in the "following cases," it would "now" be disposed of. And this is followed by a generalization to the effect that when the Oklahoma legislature declared by implication that free banking is a private danger and that "incorporation," inspection, and the above-described co-operation are necessary safeguards, the court cannot say that it was wrong; citing in this connection some cases on the power of the state to restrict banking business to corporations, and other cases merely involving the power to regulate private banking. In view of the great practical importance of the question and the conflict among the state courts concerning it, it would seem that it was entitled to a more deliberate consideration, or at least to a fuller discussion than it received from the highest tribunal of the land. In any event the position of the United States Supreme Court on this question does not preclude the state courts from taking a contrary position or adhering to such position if already taken.

As to the merits of the question: It is clear, upon one hand, that the right of banking in all of its departments, save the privilege of issuing bills to circulate as money, is not a franchise at common law, but a right to be enjoyed by indi-

[1] 219 U. S. 114, 55 L. ed. 117, 31 Sup. Ct. Rep. 189.

[2] Noble State Bank v. Haskell, 219 U. S. 104, 25 L. ed. 112, 32 L.R.A.(N.S.) 1062, 31 Sup. Ct. Rep. 486, Ann. Cas. 1912 A, 487.

[3] First Nat. Bank v. Shallenberger, 172 Fed. 999.

vidual citizens at their pleasure;[4] and upon the other hand, that the state may reasonably regulate and restrain the right of banking.[5] There is, however, a square conflict of opinion among the state courts on the question whether this power to regulate and restrain includes the power to prohibit private individuals from engaging in the business of banking. Such power has been affirmed by the North Dakota supreme court.[6] and by the Wisconsin supreme court;[7] and denied, except as to the privilege of issuing bills to circulate as money, by the South Dakota supreme court[8] and by the Nevada supreme court.[9]

This common-law right of the individual may share the fate or other rights and eventually yield in all the states to the encroachments of the police power so potent in these days to aid the paternalistic tendency in government, and to sanction restrictions on individual freedom; but even the prestige and authority of the Federal Supreme Court will scarcely suffice to settle with so little consideration a question of such importance both from a practical and from a legal standpoint.

George W. Parmele.

[4] See Bank of Augusta v. Earle, 13 Pet. 519, 596, 10 L. ed. 274, 311, and other cases cited in the note in 5 L.R.A.(N.S.) 874.

[5] See note in 5 L.R.A.(N.S.) 874.

[6] State ex rel. Goodsill v. Woodmansee, 1 N. D. 246, 11 L.R.A. 420, 46 N. W. 970.

[7] Weed v. Bergh, 141 Wis. 569, 25 L.R.A. (N.S.) 1217, 124 N. W. 664.

[8] State v. Scougal, 3 S. D. 55, 15 L.R.A. 477, 44 Am. St. Rep. 756, 51 N. W. 858.

[9] Marymont v. Nevada State Bkg. Board, — Nev. —, 32 L.R.A.(N.S.) 477, 111 Pac. 295.

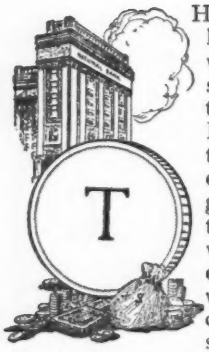
It becomes incumbent upon us as lawmakers, it seems to me, to see that the two banking systems of the country—the State system and the national system—are blended into one harmonious whole, in which the restrictions imposed upon banks and the requirements imposed upon banks as to capital and surplus will be substantially the same. How can this be accomplished? I suggest that it can be accomplished either by persuasion or by coercion. By persuasion by giving the State banks, in case they submit themselves to the supervision, the requirements, and the restrictions of the national banking act, the benefit of that act so far as emergency currency is required, and by that process they might be coaxed into a harmonious system of banking. Or they may be coerced by the national authority, which is supreme in so far as interstate commerce is concerned.—*Hon. Francis G. Newlands.*

Plan of the National Monetary Commission

BY HON. EDWARD B. VREELAND

Member of the New York Bar

Representative in Congress and Vice-Chairman of the National Monetary Commission



THERE is no field of human endeavor in which experience is of so much value as in the financial field. Here it is especially true that an ounce of experience is worth a good many pounds of theory. Why should we not turn to the experience of the world? The great countries across the sea have had hundreds of years of experience in trying out financial theories. Suppose the steel mills of Europe were able to make steel of much better quality than the mills of our country. If that were true, every greyhound that crosses the sea would be crowded with experts going over to learn the secrets of their manufacture. Why should we not profit by their financial experience? When we learn that the great countries of Europe have not had a money panic in from 50 to 100 years, why should we not endeavor to understand the principles upon which their systems rest, and profit by them?

Is it not a remarkable fact, that all of the other great independent countries of the earth, as a result of their long experience, have adopted practically the same system of banking and currency? I mean by that the principles upon which their systems rest are the same, although their methods of applying those principles may widely differ.

Only Two Systems of Banking and Currency.

Sometimes we hear people talk as if there were a great variety of banking and currency systems in the world, and that we have only to pick out the best.

In all the history of this world since civilization commenced there have been but two systems of currency found that have stood the test of experience and are in existence to-day. Of course, I mean outside the United States, where, as has been well said, we have a series of banks but no banking system.

One is the system which prevails in Canada and Scotland, and the other is the system which prevails in every other great civilized nation on earth except the United States. Under the system prevailing in Canada and Scotland they have a comparatively small number of large banks—Canada has 29, Scotland 8—which are given the right to issue bank-note circulation against their assets and the right to establish an unlimited number of branches throughout the country. Each one of these large banks endeavors to put out all of its notes possible, on account of the profit there is in it for them. In order to keep out as many of its own notes as possible, it sends in the notes of all other banks for redemption, the same as we, in our banks, return checks to the banks upon which they are drawn. This competition between the banks trying to put out their own notes and to retire the notes of the other banks prevents their volume

of bank notes from becoming either redundant or deficient. The banks collectively can keep out whatever volume of bank notes the business of the country requires. The Scotch-Canadian system rests upon the element of profit to the banks, and can only be used successfully under the branch bank system.

In every other civilized country they use the central system; that is, their bank-note issue is centralized in one institution, under government regulation; and the element of profit is largely taken out of it, where the business of the country automatically decides how much currency is needed in business. Business indicates its need by presenting its commercial paper and asking in exchange for it bank notes or credit.

We cannot adopt the Scotch-Canadian system. Why? We cannot adopt it because it is based upon branch banking, and because our present system of individual banks, owned in each community, is too firmly established in the regard of our people to admit of change. An attempt to establish that system with us would simply mean a great inflation of the currency and little more elasticity than we have at the present time, provided the notes issued were considered as good as our present bond-secured notes by the bankers and by the people. Under our system of banking it would fail in its redemption features. What interest would 18,000 state banks have in selecting out and sorting and doing up into bundles and shipping away by express for redemption bank notes issued under the Canadian system by our thousands of individual banks, provided our banks had entire confidence that the notes were good? We cannot adopt the Scotch-Canadian system unless we adopt branch banking with it, and even if we could it would afford no relief to 18,000 state banks.

Then, as a result of the examination of the experience of all history, we find ourselves reduced by a process of elimination to the other method, of having notes issued by one central authority under regulation of law. Commencing with England in 1844, every other great independent country in the world has taken away from individual banks the right of note issue and given it to a central institution under government regulation. France took the same action in 1848, Belgium in 1850, the Netherlands in 1860, Spain in 1874, Germany in 1875, Austria in 1878, the Balkan states in 1877, Russia in 1879, Japan in 1882, Portugal in 1891, Norway and Sweden in 1897, and Switzerland in in 1907; and in considering these historical facts, we must remember this,—most of these countries have banking systems consisting of a few large, well-managed banks, great joint stock banks like those of England, Germany, and Austria, that are able to employ the best talent that can be had and pay large salaries to men of the greatest ability in financial affairs. Under these circumstances the issue of asset currency by individual banks would be infinitely safer than in the United States, where we have 25,000 large and small banks scattered over a continent.

As a result, then, of the experience of the whole world, extending over a great many years, tested in countries doing a great volume of business, meeting the different conditions in different countries, we find two great financial principles which every independent country on earth except ours has adopted.

First. The centralization of bank-note issue in one institution under government regulation and control, such bank notes resting upon gold and commercial paper indorsed by banks, and automatically increasing and decreasing according to the needs of business.

Second. The mobilization in part of the cash reserves of banks against their deposits in one institution, such institution carrying large reserves and having the right, under regulation of law, to expand its note issue and credit liability based upon gold and commercial paper.

At the commencement of the panic of 1907 in New York city, the Secretary of the Treasury fortunately had about $30,000,000 which he could deposit in banks, largely in the city of New York. Had it not been for this cash, immediately available, aided by the work of some of the great bankers of New York city, this country would have had such a financial smash up as never before happened in history.

The banks of this country carry nearly a billion and a half dollars in cash reserves. Suppose when the Knickerbocker Trust Company closed its doors, or when the surging mass of excited depositors was clamoring for its money, we had been able to take one hundred millions or two hundred millions of this great cash reserve and throw it into that panic-stricken city; it would have put out the panic like throwing a bucket of water on a match. It never would have passed outside the city limits. I am not sure but that even the knowledge that such a great cash reserve existed, and which could be used, would have been sufficient to stay the panic without actually using a dollar of it.

I am going to venture to say that I do not believe that any intelligent man can take up the study of banking and currency, study it thoroughly, examine the experience of our own and of the other great countries of earth, and arrive at any other conclusion than that we must have a mobilization of our reserves, and centralization of our note issues under some form of organization.

Not a Central Bank.

What do we learn from all of these experiences in the countries beyond the sea? Do I mean that we must set up a central bank here fashioned after the central banks abroad? Do I mean that we should bring to life the central bank of Andrew Jackson's time? Do I mean that we should set up here a bank like the Bank of France or the Reichsbank of Germany? I mean none of those things. The lesson that we should learn from experience is that we should adopt these financial principles, which have stood the test of experience for a century among great populations, in carrying on great business. We should adopt these principles and build around them the machinery to adapt them to American conditions. . . .

National Reserve Association an American Institution.

What we want is an American institution. We want to adopt financial principles tested by experience, and upon them erect an institution adapted to the needs of the United States. And I want to say that it is the belief of thousands of our countrymen, who have reached that opinion after disinterested study, regardless of the party to which they belong or the section of the country in which they live, that the plan proposed by the National Monetary Commission would create an American institution which is not only economically sound, but one in which all sections of the country would have their proper and equal say as to the management of our financial affairs.

We have built up an institution, using the framework of our country as its model, building from the bottom up, the town, the county, the state, and the nation. The individual local bank corresponds to the town, the local association of banks which we create corresponds to the county, the fifteen branches or districts into which we would divide the country correspond to the states, and the National Reserve Association, at Washington, corresponds to the national government. . . .

Aldrich-Vreeland Emergency Bill.

I suppose I ought to refer for a moment to the so-called Aldrich-Vreeland emergency bill, which was passed by Congress in 1908, and which expires by limitation in a little over two years. There was a good deal of opposition to this bill when it passed, because its purpose was not understood. But those who advocated the emergency bill also advocated the appointment of a commission to make a comprehensive study of the whole subject, and that has now been done.

I think the country would be reluctant to see this law expire with nothing to take its place. It is a rather crude and awkward provision of law, because the system to which we attach it is crude and awkward; but I believe the fact that $500,000,000, in case of a great impending crisis, could immediately be brought into circulation, would prevent the fear of a money famine. The mere fact that it is on the books and can be used gives a measure of confidence along this line.

I have likened this law to a town or village which has a large number of

frame buildings, and where, on that account, fire is likely to break out at any time and destroy the town, and the trustees think it wise to buy a fire engine to put out the fire when it starts and before it becomes a conflagration. That is what we did in passing the emergency law. We know from experience that we have a very inflammable condition in the United States, and I thought we needed a fire engine so that we could pour out some of that $500,000,000 to stop the fire before it got beyond control. It is necessary to have such a law so long as we have frame buildings, but that is not the proper remedy. The proper remedy is to remove the frame buildings and build up a fire proof structure, so that a fire will not gain headway.

I want to quote what I said about the emergency law when it was before Congress:

"In my judgment the greatest benefit of this bill will lie in the fact that it is on the statute books of the United States and can be used if necessary. In my judgment the fact that a great fund of $500,000,000 can be called out in less than a week's time in case of impending crisis,—the very fact that it can be done does away with the probability that we will ever be obliged to use it." . . .

Political Control.

Some good people are afraid that if we establish the National Reserve Association it will get into politics. I suppose they mean by this that it will become the subject of attack by one political party and of defense by another political party. Why do they fear this? Because seventy-five years ago, in Jackson's time, a central bank existed and a political contest arose over the renewal of its charter.

Upon some questions there is bound to be political agitation which is taken up by political parties,—for example, the tariff. There are irreconcilable differences between groups of people in the United States upon the question of the tariff, based upon personal and sectional interests. The importers, an influential body of business men, would desire to have no tariff, or one so low that they could bring in foreign products without hindrance, thereby increasing their business and their profits. On the other hand, the manufacturers would desire to have a tariff so high that all foreign products would be shut out, so that their business and profits would increase. These differences cannot be reconciled, but both the importer and the manufacturer would agree that we ought to have the best banking and currency system that we can devise.

Financial Control.

Some critics say that the Standard Oil group or the Morgan group or both of them will get control of this institution. The American people have prided themselves upon their ability to originate and conduct great enterprises. They have prided themselves upon their inventive genius and their new and modern methods of doing business. In our monetary system alone we are behind every other great country. Must we admit that we are not able to originate a banking and currency system, embodying the principles tested by experience, which shall be safe from ambitious financial interests? If so, then we will have to go along and suffer under our present system.

But I am not willing to admit that the American people, with their energy, inventiveness, and originality, are not smart enough to write upon the statute books, in terms which all may read and understand, the provisions and regulations of an institution which shall be safe from this danger.

I want to ask those gentlemen who fear that the Standard Oil group or the Morgan group will control. Who is in control of the financial field at present? Who has not noted the amalgamation of banks in New York and Chicago which is constantly taking place? Every few months some colossal bank emerges from the unification of two or more banks in those great cities. Why, it is not left for us to decide whether we will have centralization in the financial field or not. We have it to-day. We will have it in increasing degree as the years go by. The only question is, What kind of centralization shall we have? At present we have centralization of power and

management and a decentralization of reserves and bank-note issues.

What we are proposing in its place is a decentralization of power and management and a centralization of a portion of our reserves and of our bank-note circulation under strict regulation of law.

We have to-day centralization in one or two of the great cities of the country, existing for private and for selfish interests, with no limitation of the profits which may be levied upon the business of the country. We would substitute for it co-operation for the general welfare, with limited earnings, in the full light of publicity.

I believe that any man who will study and understand the provisions of this plan will admit that the Monetary Commission has placed it beyond possibility of selfish financial control. We have provided that there shall be no sale of stock and no voting proxies upon stock. We have given to the tens of thousands of country banks, whose interests are identical with the communities in which they are located, the power to elect the directors in the local associations in the fifteen districts and finally in the national board. We have given to the board of directors in each one of the fifteen branches control over its own affairs except as to rate of discount. We have provided against one bank holding the stock of another. We have provided that so-called chains of banks under one control shall have but one vote. We have declared in the law that every bank shall have equitable treatment. We have made the earnings so low as not to be attractive to large interests. There could be no speculation in its stock, because it could not be sold.

No great financial interest would dare to attempt to secure control of it in view of the experiences of the last few years. Any act by any director of any district board or of the national board which indicated that he was acting for selfish or personal interests would excite criticism, and he would fail of re-election as a director and retire in disgrace.

But while these restrictions make it certain that no great financial interest could control the reserve association or any of its branches, and would never dare even try to do so, the limitation of the powers of the reserve association make it certain that no special interests would desire to obtain control if it were within their power. How would it benefit them? What could they do with it? Does anyone suppose that the Morgan group or the Standard Oil group desire to borrow money upon commercial paper which has twenty-eight days or less to run, and which must be indorsed by a bank and upon which they would have to pay the same rate of discount as every other bank in the United States?

It is evident, then, that no great financial interest could afford to invest any capital or spend any time in trying to get control of the reserve association for the purpose of using its funds to gain control of railroads and industrial corporations, or of banks and trust companies, through the ownership of stocks and bonds. The reserve association can be used for none of these purposes. Its money can only be used to purchase commercial paper indorsed by a bank and at a uniform discount rate.

Our present banking and currency system is like the old confederacy which existed after the close of the Revolutionary War,—weak and flabby, without consistency or power, because there was no cohesion, because the states were unable to use their great resources and power as a unit. You will remember that it took all of the influence and power of Washington and Jefferson, of Madison and Hamilton, to induce the people to lay aside that weak and flabby confederacy and adopt the Constitution of the United States, under which we have grown so great and powerful.

The adoption of the Constitution was the greatest event in our history: it created, we hope for all time, a nation.

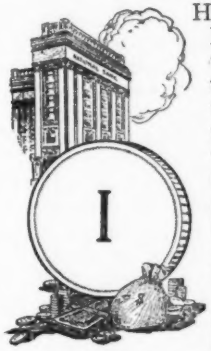
So it will be an epoch in our commercial history when we place upon the statute books a banking and currency system commensurate with the greatness and power and resources of our country. —From address delivered in House of Representatives.

The Money Trust

BY HON. CHARLES A. LINDBERGH

Member of the Minnesota Bar and Representative in Congress

Ed. Note.—[Representative Lindbergh has on several occasions, in speaking on the Banking and Currency question, declared his views as to the existence of a "money trust." By his kind permission we present herewith his opinions on this important subject as expressed before the Committee on Rules.]



I HAVE assumed, and I believe that there is very little doubt among those who have studied the subject closely, that there is a money trust, but its form and the nature of its operations are not generally understood. Therefore, to clear up the field for practical work, I shall go considerably into detail. Credits and debits, balanced by a small fraction of honest money, might be used as an equitable measure by which producers would be paid and consumers charged on the products and services of commerce. Unfortunately, however, a few speculators have wedged in between the producers and consumers, and operate and now principally control the system of credits and debits, and through it enough of the money, so that these speculators control the commodities by paying the producers the least and charging the consumers the most they can stand. Under that arrangement present property and financial management conflicts with human rights and hinders common success.

Our financial system is false and a huge burden on the people. The money kings know that the people are sweating under it, and since there are some rather loose points about it, the money kings wish, through the demand of the people for a change, to manage it in the interest of Wall street, and have proposed the Aldrich plan and are industriously trying to make the public favor that plan. . . .

I have alleged that there is a money trust. The proposed Aldrich plan is a scheme in the interest of the trust. There is a money trust. It is not in the form of the steel, the oil, the tobacco, the railways, and the other common trusts. It is maintained and governed by entirely different methods. It is father of the others, but unlike. The government prosecutes other trusts, and it specifically and systematically supports the money and credit trust. The government creates by indirection what it seeks to destroy by direction.

American intelligence justifies a study of finances from a rational view. In this day of general business knowledge we need not speak in theory or in vague terms of philosophy and law about business matters that are practically within daily observation. It is enough to make a true statement of the facts and of how the system operates, pointing out the errors and suggesting remedies.

Money, and especially credit, is controlled principally through the banking system. I shall begin by describing some practices in that system and follow up to where the trust control has become effective. When I speak of national banks, practically it includes state banks, for there is little difference in the practical results of their business, and remedial legislation should comprehend all banking business.

Deposits.

After a bank is organized and ready to do business, the securing of deposits is the important thing. Banks cannot succeed without. Neither can the trusts. It is because of getting the reserve deposits that the money trust has for many years been in control. It is because of

being able to borrow the deposits that speculators are exploiting the people to an illimitable extent. That is the initiative.

The money kings were early in the game and conceived the idea that they would use as much as possible of the reserves and deposits themselves, so that in addition to the direct deposits made in the large cities they provided that the banks in country districts and the towns of least influence need hold only 6 per cent of their deposits in cash and that 9 per cent could be kept in reserve and in central reserve cities, where the money kings, financiers, and speculators reside, and could get more than three quarters of it for speculation.

New York had the par excellence of financiers and speculators, so it played over all the others, but for political reasons included Chicago and St. Louis; and so the three cities are exclusive money centers in which to concentrate the cash belongings of the country folks and of small depositors in the cities, there to be used to exploit them and the general public. In plain language, the largest banks in the three cities, and more especially New York, are the promoters for the trusts. . . .

On August 15 the New York World published that the New York state banking department reports show that on July 1, 1911, there was due to depositors from 141 savings banks $1,594,224,557.93 and included 2,962,845 accounts. The state banking department verified the figures to me. The New York World, commenting upon the report, said, "Here we get a glimpse of the real money power," intending, I suppose, to convey the idea that the money power was in the 2,962,845 open-account owners, the majority of whom had earned their little accounts by the sweat of their brows. But if that was the intent of the World it could not have missed the truth any further, for the money power is not in the owners of little accounts, not even if they combine with the owners of like accounts in savings banks, trust companies, and banks, elsewhere.

Those who control these accounts and the credit based on them constitute the money power. They manipulate the money, stock, provisions, and general markets, and the owners of these little accounts and all the people are charged back with the interest the banks pay them and enough more to make it most profitable for the speculators to borrow the accounts and pay for them a larger rate of interest. The small depositors' accounts draw 3, 3½, and sometimes 4 per cent, and the banks reloaning them of course get a higher rate from the speculators. These have a system of gambling devices to control commerce, industries, and commodities, and they charge on the goods, wares, and merchandise, and other services the people buy enough to pay back all their expenses, including the highest rates of interest and dividends on watered stock.

It is all a deception that the money kings and speculators work on the plain producers. Plain people earn and save a few dollars and deposit them in the banks. The money kings attempt to make them believe that because the aggregate of their small deposits makes one large sum that they are the masters of the money situation. The only thing the small depositors can do to make their influence felt is to demand their money from the banks, which the banks cannot pay until the speculators to whom they are loaned pay the banks. If the depositors make more than an ordinary demand it produces a panic. That is a power to be sure, but is worse than worthless to the depositor. It is ruination to him. . . .

Concentration of Deposits.

It is through the process of concentration of the small depositors' earnings into the Wall street banks that Morgan, Rockefeller, and a few others, mainly controlling the New York banks, secure the use of a volume of money belonging to depositors in all parts of the country. They use it the same as if it was their own; with it they control finances, commerce, industry, and practically all the products on the market. By this system they drain the rest of the country of its free money, and thereby destroy its local enterprise in the communities from which it comes.

The system takes the money and cred-

its out of the localities of their origin and ownership and places them at the disposal of the money trust, enabling that monster to pyramid financial dealings aggregating tens of billions of dollars annually, and resulting in the establishment of monopolies. On these the public is assessed interest and also charged to pay dividends on watered stock. It is added to the cost of commodities and the services of commerce that the people must buy. . . .

The little depositors in the banks everywhere should know how their money is being used as a means to corner everything they need in this world, and to boost the prices of all they must buy. In their right they should demand of their bankers where they deposit that the banks send not another cent except that necessary for current exchange to the reserve cities, and further, that their balances now in those cities shall be withdrawn as rapidly as the same can be without creating financial disturbance. The bankers should be given reasonable time in which to make the adjustment, and from then on should be held to the financial support of the communities from which they get their deposits.

Criticism of Aldrich Plan.

The Aldrich plan is to be vested with numerous special privileges:

(a) Its first act will be to drain all the communities of cash equal to 20 per cent of the capital of their banks and trust companies.

(b) The government of the United States shall deposit its cash balance with the National Reserve Association, and the association shall pay it no interest. If the people asked the government to furnish them money without interest, it would be charged by Aldrich and the advocates of this plan that they were Socialists. Again, "Consistency, thou art a jewel."

(c) The reserve association shall take over the government bonds held by the banks, and have the currency privilege attached to the same, and assume responsibility for the redemption of the notes secured by the bonds. The reserve association shall issue its own notes—that means money—on the terms named, and may issue other notes—money—from time to time to meet business requirements.

(d) If the government shall adopt the policy of issuing securities—bonds—at a higher rate of interest than 2 per cent, the reserve association shall have the first chance to get them.

The stockholders, which are the corporations that will own the National Reserve Association, are to get 5 per cent dividends. A sure thing if we once breathe life into the reserve association, which it is knocking for at the door of Congress. See its note-issue scheme.

It is hard to conceive of a private institution having the boldness to demand a special privilege of the nature asked for the National Reserve Association in regard to note issues. In order to force national banks to subscribe to its stock, it is provided that for the period of one year the association must offer to purchase, at not less than par and accrued interest, the 2 per cent bonds held by subscribing banks and deposited to secure circulation notes, and that the reserve association may issue its own notes instead.

Then follows the proposition that it shall be the policy of the United States to retire as rapidly as possible the bank-secured circulation, and substitute therefor notes of the National Reserve Association which may be issued from time to time to meet the business requirements. The proposition is to cover these notes to the extent of one third by gold or lawful money, and the remaining portion to be bankable commercial paper or be obligations of the United States. It could, for example, take $10,000,000 lawful money and $20,000,000 commercial paper and issue $30,000,000 in notes (to be used as money) and keep repeating that operation over and over until the sum reached $900,000,000. Thus by the use of $300,000,000 of lawful money it may issue not only the $300,000,000 of its own paper but $600,000,000 in addition, a privilege so great that a person with a proper conception of the general fitness of things is filled with awe at the gall of the proposition. It is an endless chain by which to keep issuing money for the money trust. Here

this association is to be given the privilege of making its own money, secured by notes given for loans of the same, and if after issuing $900,000,000 under this wonderful special privilege it still is not satisfied with the gift of that it may issue $300,000,000 more on the small tax of 1½ per cent per annum. If perchance or design it becomes the desire to corner the commodities of all the world to help in that, it is proposed to give it unlimited power to issue its notes, which are to pass as currency. If it issues in excess of $1,200,000,000, it must pay a special tax at the rate of 5 per cent per annum. Absolutely no limit to the amount, and yet there are times when on Wall street there are skirmishes to secure possession of great properties when the payment of 5 per cent interest would be a matter of minor importance to speculators. The commerce of the country could suffer unnoticed in one of those contests.

(e) The notes of that association shall be received at par in the payment of all taxes, excises, and other dues to the United States, and for all salaries and other debts and demands owing by the United States to individuals, corporations, or associations, except obligations of the government which are by their terms specifically payable in gold. Note the last. That refers to the government bonds that the reserve association itself proposes to hold. It is to take all of the money of the United States, and may pay the United States in reserve association money, but the United States must pay its bonds to the association in gold.

(f) The National Reserve Association and its branches and local associations shall be exempt from state and local taxation except on real estate.

The special privileges mentioned are not all. There are many others in the plan. They want it to be the absolute arbiter of the future finances of the people and of the country. They ask Congress to breathe corporate life into it. The people and the government's finances would then be under its control.

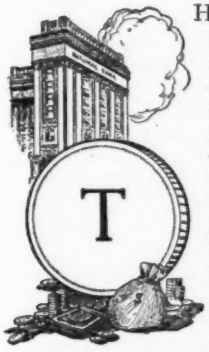
A special provision is made in the Aldrich plan for organizing foreign banks, and these banks could be used in Europe as a base, like the New York banks are used in America, to create European monopolies. And in one additional step we would be confronted with world monopolies to deal in all things that the people need to buy. . . .

We know that a few men and their associates control, by stockholdings and a community of interest, practically all the most important industries and also the transportation systems on which the products of all industries must be carried from producers to consumers. These same few men control the finances of the country, and may bring on a panic any day that such would suit their selfish ends. We need no evidence of that fact.

There is one of two things that will have to take place in this country if we are to be relieved of made panics—either the government must go into the business of managing the issues of money and controlling the finances, or else the concentration of the money belonging to the people into Wall street will have to be stopped and the different sections of the country be allowed to conserve their own resources, aided by such legislation as may seem proper. The latter is, on condition of things as they now are, the first solution. Ultimately the other will come and compete with the first, and if it seems to the general public the most satisfactory it will replace the first.

Bank Deposit Guaranty Legislation

BY EDWIN S. OAKES



THE shortage of currency, which was a feature of the panic of 1907, was directly productive of two pieces of legislation,—the Aldrich-Vreeland act and the Oklahoma bank depositors' guaranty act. The idea of the former was that a similar situation might be met by the provision of a circulating medium of sufficient elasticity, while the belief which formed the foundation of the latter was that the existing medium would prove sufficient could the demand therefor be kept normal by the preservation of public confidence in the ability of the banks to satisfy their depositors.

It is not the purpose of this article to enter upon any discussion of the policy of deposit guaranty legislation. This phase of the subject has already been widely and warmly debated,[1] though, for the most part, to little purpose, many of the arguments used, both pro and con, being based on premises the existence of which is largely a matter of conjecture;[2] and further discussion may well await the issue of the experiments now being made, which it is the function of the present article to describe.

The Oklahoma Plan.

The original Oklahoma deposit guaranty legislation formed a part of the banking act adopted by the legislature of that state at its first session, other provisions of which are pertinent to the consideration of the guaranty feature. In the first place, the act excludes all except corporations from engaging in the banking business. Banks organized under its provisions are permitted to receive deposits not to exceed ten times the amount of the paid-up capital and surplus,[2a] deposits of other banks not included; and to pay interest thereon not to exceed the rate that may, from time to time, be fixed by the bank commissioner. Directors are required to own stock to the amount of at least $500, free from any encumbrance. Active officers are prohibited from borrowing from their own banks; and may be summarily removed by the bank commissioner for dishonesty, recklessness, or incompetency. A state banking board, composed of the governor, lieutenant governor, president of the board of agriculture, the state treasurer, and the state auditor, is created by the act to be the custodian of the deposit guaranty fund, which, under the provisions of the original act, was to be raised by an assessment upon each state bank and trust company of a sum equivalent to 1 per cent of the daily average deposits (excluding government deposits) for the preceding year, and the payment annually thereafter of 1 per cent of any increase in the daily average deposits during the preceding year. The levying of additional assessments, without restriction as to amount, to keep the fund at the maximum was also directed. Banks organized subsequently to the enactment of the law are required to pay into the fund 3 per cent of their capital upon opening for business; but at the end of the year this amount is to be readjusted upon the

[1] See 25 Banking Law Journal 519; id. 605; Scribner's Magazine, vol. 44, p. 101; Review of Reviews, vol. 37, pp. 340 and 345; Forum, vol. 47, p. 653; Journal Political Economy, vol. 17, p. 65; vol. 19, p. 131.

[2] An exception must be made of the able articles of Mr. Thornton Cooke in the Quarterly Journal of Economics, vol. 24, pp. 85 and 327, to whose painstaking investigation and candid statements every student of the subject must acknowledge an indebtedness.

[2a] The act as first passed permitted the ratio of deposits to paid-up capital and surplus to be fixed by the Bank Commissioner.

basis of their average deposits. Reorganized or consolidated banks which have paid the tax are not, however, required to contribute the percentage of capital required of new banks.

From the fund thus created the depositors of any insolvent bank complying with the provisions of the law are, when the cash on hand or immediately available is insufficient for the purpose, to be paid immediately, the state then having a first lien upon the assets, including liabilities of stockholders, officers, directors, and all debtors.

The assumption that a fund of 1 per cent of the average deposits would be sufficient seems to have been based upon the fact, shown by the report for 1907 of the Comptroller of the Currency, that the average annual loss to depositors in all the national banks which became insolvent during the period of forty-three years from 1863 to 1907 was only one half of 1 per cent of the average annual deposits, the proportion of the total loss being only 2.17 per cent of the average annual amount of deposits, while the average annual loss to depositors in all the national banks in the United States was less than one ninth of 1 per cent of capital and surplus.

Critics of the Oklahoma law, however, were not slow in pointing out that the percentage of loss for a single year might considerably exceed the average loss for a period of years; and by an amendment passed in 1909 the guaranty fund was increased from 1 per cent to 5 per cent of the average daily deposits, payable one fifth during the first year, and one twentieth during each year thereafter until fully paid. The same amendatory act provides that the aggregate of emergency assessments to be levied against the capital stock of contributing banks shall not, in any calendar year, exceed 2 per cent of the average daily deposits, thereby obviating what was regarded by bankers as a dangerous feature of the law. The act also provides that should the amount so realized prove insufficient to pay off depositors having claims against the funds, the state banking board shall issue to each depositor a certificate of indebtedness bearing 6 per cent interest, payable upon call of the board.

Provision was also made by the Oklahoma statute for voluntary participation by national banks, which, however, were to be permitted to withdraw in the event of the creation by national legislation of a similar guaranty fund. Upon the request of the Secretary of the Treasury, Attorney General Bonaparte rendered an opinion[3] to the effect that national banks are without legal right to become contributors to such a fund, upon the ground that, viewed as an insurance of their own depositors against loss, such course is without warrant in the provisions of the national banking law, and, in his opinion, essentially foreign to the legitimate functions of the national bank as an instrument of government;[4] and that, as it involves essentially a guaranty to the depositors of other state and national banks contributing to the fund, it is *ultra vires* under the rule that a national bank has no power to guarantee the obligation of a third party unless in connection with a sale or transfer of its own property, and as an incident to the banking business. Upon the rendition of this opinion, forty-five of the fifty-seven national banks which had become contributors to the fund withdrew, while the remaining twelve became state banks.

Soon after the Oklahoma law went into effect, the Noble State Bank instituted a suit for an injunction restraining the banking board from levying the assessment, on the ground that the law requiring it was unconstitutional. The case was ultimately carried to the Supreme Court of the United States,[5] which held that the police power of a state extends to the regulation of the banking business, and even to its prohi-

[3] 27 Ops. Atty. Gen. 37.

[4] It should be noted in this connection that Attorney General Wickersham has rendered an opinion to the effect that a national bank may contract for the insurance of its assets against loss, and thereby insure its own solvency, which, of course, would operate as a protection to depositors. See 27 Ops. Atty. Gen. 324, Report of the Comptroller of the Currency, 1909, p. 94.

[5] Noble State Bank v. Haskell, 219 U. S. 104, 55 L. ed. 112, 32 L.R.A.(N.S.) 1062, 31 Sup. Ct. Rep. 186, Ann. Cas. 1912a, 487.

bition except on such conditions as the state may prescribe; that the statute in question did not impair the obligation of the contract represented by the charter of the bank; and that, although involving "a comparatively insignificant taking of property for what in its immediate purpose is a private use," it could not be regarded as depriving a solvent bank of its liberty or property without due process of law, the means adopted having a reasonable relation to the ultimate public purpose intended to be subserved. The supreme court of Oklahoma had theretofore held [6] that the act was not in conflict with that section of the Oklahoma Constitution which provides that "all persons have the inherent right to life, liberty, and pursuit of happiness, and the enjoyment of the gains of their own industry;" nor with the provision reserving the power to alter, amend, etc., any charter of incorporation, "in such manner, however, that no injustice shall be done to the incorporators;" and that it did not deny to the bank the equal protection of the laws, in violation of the Constitution of the United States. In this connection it may also be noted that the Federal circuit court of appeals has held [7] that national banks in a state are not unconstitutionally denied the equal protection of the laws by a state statute permitting state banks to contribute to a guaranty fund; and that such a statute is not invalid because the plan will tend to attract depositors from national banks, and therefore impair their efficiency as instrumentalities of the national government.

Before proceeding to a consideration of the deposit guaranty legislation of other states, it seems in order to advert to certain changes in the Oklahoma banking law since its first enactment.[8] Coincident with the putting of the deposit guaranty feature into operation, there was a great rush to secure banking charters.[9] This, while undoubtedly due in part to the development of the state at that time, is also attributable to the preference for state banks evinced by the depositors, of which more will be said later. Many of the new banks began business with the minimum capital allowed by law, then $10,000. Mr. Thornton Cooke believes, however, that the guaranty of deposits did not create the tendency to small capitalization, but rather that it was due to the scarcity of capital on an economic frontier. However, the acts of May 26, 1908, and of June 11, 1909, successively forbade banks of the minimum capitalization, the former in towns of more than 2,500, and the latter in towns of more than 500; the amount of capital required increasing in proportion to population.

The statute permitted bankers to advertise that their deposits were "protected by the Depositor's Guaranty Fund of the state of Oklahoma." The impression prevailed among many depositors, however, that their deposits were guaranteed by the state itself, and some banks went so far as to advertise to that effect. It was therefore deemed advisable to provide a penalty for advertising that deposits are guaranteed by the state.

Kansas Legislation.

The next state to enact a guaranty law was Kansas, where the question had long been agitated. The original statute was passed March 6, 1909, and the guaranty plan was to go into effect on the first of July of the same year, but it did not in fact become operative until the constitutionality of the statute was affirmed by the United States Supreme Court.[10] It differs from the Oklahoma

[6] 22 Okla. 48, 97 Pac. 590.

[7] Dolley v. Abilene Nat. Bank, 102 C. C. A. 607, 179 Fed. 461, 32 L.R.A.(N.S.) 1065.

[8] A press report states that a recent amendment excepts trust companies from the operation of the guaranty law. The report makes the comment that their exception is a matter of small importance, as there are but three companies of the kind in the state. If, however, trust companies are permitted in Oklahoma to do a deposit and discount business, the amendment opens a way of escape to bankers who find the law too burdensome, and who do not find nationalization practicable.

[9] Between February 29, 1908, and June 23, 1909, the number of state banks increased from 470, with a capital of $6,233,216 and surplus $580,892, to 631, with a capital of $10,270,800 and surplus of $758,774.

[10] In Assaria State Bank v. Dolley, 219 U. S. 121, 55 L. ed. 123, 31 Sup. Ct. Rep. 189, the Supreme Court, in upholding the bank

act in that participation in the guaranty plan is voluntary.

The Kansas statute, as amended in 1911, provides that any incorporated state bank having a paid-up capital and unimpaired surplus equal to 10 per cent of its capital, and any bank which may, after the passage of the act, be authorized to do business in the state, and which shall have been actively engaged in the business of banking for at least one year, and having such surplus fund, may participate. In a town where all existing banks fail to participate for six months after the taking effect of the act, a new bank may participate at once. Each bank, before being allowed to participate, must submit to a rigid examination. All deposits not otherwise secured are guaranteed by the act,[11] which specifies that the guaranty shall not apply to a bank's obligation as indorser upon bills rediscounted, nor to bills payable, nor to money borrowed from its correspondents or others; but any bank which shall pay interest on different terms or in excess of a rate (which rate shall be uniform within each county) that shall be approved by the bank commissioner from time to time, on any form of deposits, or any interest on any savings deposit withdrawn before July 1st or January 1st next following the date of deposit, or on any time certificate cashed before maturity, is not to be allowed to participate in the benefits of the act, and the officer responsible for such payment is to be deemed reckless and removed from office.

The guaranty fund is formed by an annual assessment of one twentieth of 1 per cent of the average deposits eligible to guaranty, less capital and surplus, until the fund shall reach the sum of $500,000. If depleted, the fund is to be restored by additional assessments, but not more than five such assessments of one twentieth of 1 per cent each may be made in any one calendar year. This fund is to be deposited by the treasurer in the state depository banks, as provided by law governing other state funds.

Each bank is further required to deposit, and at all times to maintain with the state treasurer, bonds of the United States government, or of the state, or any of its municipal subdivisions, or cash in lieu thereof, to the amount of $500 for every $100,000 or fraction thereof of its deposits eligible to guaranty, to insure the prompt payment of assessments and compliance generally with the terms of the act.

Any bank seeking to participate after the first annual assessment shall have been made is to be assessed an amount approximately equal to its proportionate share of the money then in the fund after all losses shall have been deducted.

Any bank electing to withdraw may do so on six months' notice, but must pay all assessments on account of banks that fail during the six months. It is also provided that the bank commissioner may for cause cancel any bank's certificate of membership in the fund, and forfeit its bonds deposited.

A solvent guaranteed bank upon retiring from business is to be entitled to the return of its bonds or money pledged, but not any part of any unused assessments that may be in the fund.

Any bank guaranteed under the act is forbidden to receive deposits continuously for six months in excess of ten times its paid-up capital and surplus.

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guaranty law of Kansas, said that it was none the less a valid exercise of the police power because it was left optional with the banks whether they would avail themselves of its privileges by contributing to the guaranty fund; that an unconstitutional discrimination does not result from the preference of ordinary depositors over other creditors, as one of the chief objects and justification of such laws is securing the currency of checks; that unincorporated banks, and banks having a surplus of less than 10 per cent, are not unconstitutionally discriminated against because not allowed to participate in the advantages of the law.

[11] The statute as originally enacted provided that only the following deposits should be guaranteed: "Time certificates not payable in less than six months from date, and not extending for more than one year, bearing interest at not to exceed 3 per cent per annum and on which interest shall cease at maturity. Savings accounts not exceeding in amount $100 to any one person, and not subject to check, upon which the bank has reserved in writing the right to require sixty days' notice of withdrawal and bearing interest at not to exceed 3 per cent per annum. Deposits which are primarily rediscounts or money borrowed by the bank, and all deposits otherwise secured, shall not be guaranteed by this act."

The Oklahoma act provides for the immediate payment of the depositors out of the guaranty fund. The Kansas act provides that, upon closing a bank, the bank commissioner shall, at the earliest moment, issue to each depositor a certificate, upon proof of claim, bearing interest at the contract rate, or if no contract rate exists, at 6 per cent, upon which dividends shall be entered when paid. After exhaustion of the assets, including the double liability of stockholders, the balance due on the certificates is to be paid out of the guaranty fund. If the fund shall be insufficient after the emergency assessments have been made, the depositors are to be paid *pro rata*, and the remainder paid when the next assessment is available.

A penalty is imposed upon any managing officers of any guaranteed bank, or any person acting in its behalf, or for its benefit, who shall pay or promise to pay any depositor interest in excess of the maximum rate permitted by the act, or who shall so advertise as to convey the impression that the deposits of the bank are guaranteed by the state; and such acts also disqualify the bank from further participation in the guaranty fund and forfeit the deposit made by it.

The act further provides that any national bank doing business in the state of Kansas may at its option, after an examination by the state bank commissioner, participate in the assessments and benefits of the fund upon the same terms and conditions as apply to state banks. Attorney General Wickersham, however, was of the opinion [12] that national banks could not legally avail themselves of the provisions of the Kansas act, taking the position that although the statute differed from that of Oklahoma [before its amendment] in that it limited the amount for which any bank might become liable, it was nevertheless open to the same objections; and further, that the act, in contemplating examination and visitation by the state bank commissioner, and in providing that if a national bank shall disregard or refuse to comply with any recommendation made by the bank commissioner in conformity with its provisions, it shall immediately be subject to the provisions and penalties of the law, thereby rendering subject to forfeiture its assets deposited as a condition to accepting the benefits of the statute, imposes upon participating banks conditions and obligations which, in his opinion, are at variance with the provisions of the national banking act.

[12] 27 Ops. Atty. Gen. 272.

The Nebraska Law.

The state of Nebraska enacted a bank depositors' guaranty law [13] March 25, 1909, by which participation by all corporations doing a banking business was made compulsory. Owing to litigation, however, the law did not go into practical effect until March 30, 1911.

The fund is created by an initial assessment of 1 per cent of the average daily deposits, except public deposits otherwise secured, distributed over a period of two years; and by subsequent annual assessments of 1/20 of 1 per cent until the fund shall reach the total sum of 1½ per cent of the average deposits, when assessments are to be discontinued until such time as the fund shall become depleted below 1 per cent of the average daily deposits. Emergency assessments are not to exceed 1 per cent in any one year. New banks are required to pay on organization 4 per cent of the capital as a credit fund toward payment of an assessment of at least 1 per cent of their deposits as shown by the first two semiannual statements. A peculiar feature of the act is that the assessments levied upon each bank are to be held by that bank to the credit of the state banking board, payable on demand; drafts upon the fund being prorated upon the solvent banks in accordance with the amounts of their holdings of the fund.

[13] The constitutionality of this statute was affirmed by the Supreme Court in Shallenberger v. First State Bank, 219 U. S. 114, 55 L. ed. 117, 31 Sup. Ct. Rep. 189, upon the grounds stated in the decision upon the Oklahoma statute.

The amount of interest which may be paid on deposits is restricted to 5 per cent, under penalty of fine and imprisonment. There is no provision as to the proportion to be maintained between the deposits and the capital and surplus, though the banking law provides that investments must not exceed eight times the capital and surplus.

The act provides that whenever by act of Congress, or by decision of a Federal court, or departmental construction of the National Banking Act, national banking associations within the state are permitted to avail their depositors of the protection of the deposit guaranty fund, such association may, after examination by and approval of the state banking board, participate upon terms and conditions to be fixed by the board, in harmony with provisions of the act. In the event of the creation by Federal legislation of a deposit guaranty fund for national banks, participating national banks may withdraw and have returned to them 75 per cent of the unused portion of all assessments paid by them.

Depositors in an insolvent bank are to be paid in full out of the guaranty fund, as soon as the deficiency in the cash in the hands of the bank's receiver is determined. There is no provision for the event of the fund being insufficient after the levy of special assessments.

The South Dakota Act.

In South Dakota, an act passed March 9, 1909, in fulfilment of a campaign pledge, provides that 100 or more banks of not less than $1,000,000 aggregate capital may join to create the State Association of Incorporated Banks, paying into the hands of the state treasurer ⅒ of 1 per cent of their average deposits for the preceding three months, except public deposits otherwise secured, and a membership fee of from $100 to $170, according to capital. Members of the association are annually to pay ⅒ of 1 per cent of their average deposits, but this rate may be reduced by the board of commissioners. Special assessments not exceeding ⅒ of 1 per cent in one year may be made to pay deficiencies. No provision is made for withdrawal from membership.

The amount of interest which may be paid to depositors is limited to 5 per cent; and under another law the amount of deposits which any one bank may receive is limited to fifteen times its capital and surplus.

Depositors are to be paid in full out of the fund upon the certificate of the bank's receiver that assets are insufficient for the purpose. If the fund is insufficient, "all or so much as may be necessary of what is accumulated in said fund within the year covered by the last payment of premium by the insolvent shall be distributed *pro rata* among said depositors, until such depositors shall have been paid in full."

It is the understanding of the writer that the association contemplated by this statute has never been formed; and that efforts to procure more radical legislation have been unsuccessful.

The Texas Scheme.

An interesting variation of deposit guaranty legislation is found in the Texas act of 1909. This is obligatory upon all banks operating under the general banking law, but gives them the option of choosing between (1) a mutual plan under which they are to contribute to the guaranty fund a first assessment of 1 per cent of their average deposits (except interest-bearing deposits and public deposits otherwise secured), and ¼ of 1 per cent annually thereafter until the fund shall amount to $2,000,000, and further to contribute, in case of depletion or emergency, not to exceed 2 per cent of deposits in any one year; (2) a security plan requiring the furnishing of a guaranty bond equal in amount to the capital of the bank if incorporated, or to one half its average deposits if a private bank, to be executed by three approved personal, or one approved corporate surety. National banks are permitted to participate should they so desire.

The option afforded by the statute does not afford much freedom of choice, as there manifestly would be difficulty in procuring personal sureties not intimately connected with the bank; while

the rates charged by surety companies exceed the expense of the guaranty plan, although a countervailing advantage would be the exemption of the bank from emergency assessments. Only forty-two banks had chosen the bond security plan on October 1, 1909, by which date all the banks operating under the Texas law were required to elect which form of security they would provide for their depositors, while 493 banks chose the guaranty fund plan.

The Texas statute also contains a provision variant from those of the acts of other states with respect to the custody of the fund; one quarter of each assessment is to be deposited with the state treasurer, and three quarters credited to the state banking board on the books of the respective banks.

New banks are required to pay into the fund 3 per cent of their capital and surplus before beginning business, subject to adjustment at the end of the year on the basis of deposits. Upon voluntary liquidation of a participating bank, its *pro rata* part of the fund unused is to be returned.

The claims of depositors are to be satisfied out of the funds immediately upon the closing of the insolvent bank; but interest-bearing deposits are not protected by the fund.

The amount of deposits which a bank may receive is limited by a provision requiring a bank to increase its capital by 25 per cent if the average deposits exceed certain ratios to the capital and surplus, ranging from five times a capital and surplus of $10,000 to ten times a capital and surplus of $100,000 or more,

Banks are permitted to advertise that noninterest-bearing and unsecured deposits are protected by guaranty fund, or by guaranty bond, under the laws of the state, and a penalty is provided for advertising that the deposits are guaranteed by the state.

Attempts have been made to procure the enactment of deposit guaranty legislation in the states of Montana and Washington, but without success. A guaranty law similar to that of Texas has passed the Colorado legislature, with a referendum proviso requiring its submission to the people at an election in 1912.

Workings of Deposit Guaranty Laws.

For present purposes, the time during which the Oklahoma law has been in operation may be divided into two periods, the point of division being marked by the failure of the Columbia Bank & Trust Company on September 28, 1909. The first may be designated the period of popularity; the second, the period of stress.

The facts relating to the effect of the law during the first period are considerably obscured by partizan controversy. This much seems clear, however, that the idea of guaranteed deposits enjoyed great popularity with the people of that commonwealth. Deposits in state banks showed a remarkable increase. A gain of approximately $25,000,000 was shown by the bank statement of April, 1909, of which about $7,300,000 came from the conversion of national banks, many of which, believing that they would be unable to compete with guaranteed banks, obtained state charters at this time. Opponents of the measure have asserted that the amount was swelled by deposits of public funds, and especially the $5,000,000 school fund which the state had received from the national government. But, as has been pointed out, the idle public funds of the new commonwealth must have been inconsiderable; while the bank commissioner has stated that as early as March, 1909, the unexpended portion of the school fund amounted to only $1,187,950, of which $250,000 was in national banks. Part of this increase is no doubt due to the expansion of business which followed a period of widespread liquidation and alarm; and the statement has in fact been made [14] that the increase in deposits at this time in states without guaranty laws was in practically the same proportion as in Oklahoma.

The fact remains, however, that a part of the gain was due to the preference of depositors, especially in the country districts, for the guaranteed banks. This is demonstrable by the circumstances that the national banks in the state did

[14] Outlook, June 5, 1909.

little more than hold their own (although the apparent significance of the figures is lessened by the fact, already noted, that the total of deposits in national banks was considerably diminished by conversions), and the fact that deposits in the banks in border counties of adjacent states showed a much less percentage of increase than those in the other banks of those states. This is illustrated by the following tables, the figures for which are taken from the Journal of Political Economy for May, 1911; and which are also of interest as showing an apparent revulsion of popular favor during the second period:

GROWTH OF DEPOSITS IN NATIONAL BANKS OF OKLA.

Date	No. of B'ks	Individual Deposits	Increase over previous year	
			Amount	Per c't
Feb. 14, 1908	312	$38,298,247	———	——
Apr. 28, 1909	242	38,994,192	$ 595,945	1.8
Mar. 29, 1910	221	43,762,447	4,768,255	12.2
Mar. 7, 1911	229	48,169,088	4,406,441	10.0

EXPERIENCE OF BANKS IN BORDER COUNTIES OF ADJACENT STATES.

State	Date	No. of Banks affected	Perctg. of increase of deposits in border counties	Perctg. of increase of deposits in other counties of state
Arkansas (8 counties)	Feb. 14, 1908	16	——	——
	Apr. 28, 1909		7.2	22.5
	Mar. 29, 1910		4.7	9.1
	Mar. 7, 1911		21.	12.5
Kansas (14 counties)	Feb. 14, 1908	34	——	——
	Apr. 28, 1909		10.7	15.4
	Mar. 29, 1910		10 6	6.4
	Mar. 7, 1911		*7.1	*7.6
Texas (20 counties)	Feb. 14, 1908	67	——	——
	Apr. 28, 1909		.8	3 2
	Mar. 29, 1910		14.6	10.5

*Decrease.

The following table, based upon reports of the Comptroller of the Currency, exhibits the fluctuations in deposits in state banks of Oklahoma during the same period.

GROWTH OF DEPOSITS IN STATE BANKS.

Date	Individual deposits	Increase over previous year	
		Amount	Per cent.
Feb. 29, 1908	$18,032,284	———	——
June 30, 1909	$39,671,505	$21,639,221	120
June 30, 1910	$44,372,752	$4,701,247	11.8
June 7, 1911	$38,521,734	$5,851,018 (decrease)	13.1 (decrease)

The first severe test of the workings of the Oklahoma plan came with the failure of the Columbia Bank & Trust Company on September 28, 1909. Previous failures had occurred, but none of such a character as to put much of a strain on the guaranty fund. Depositors had been paid off promptly, and the closing of the banks had occasioned little disturbance in the communities in which they were located. The Columbia Bank, however, was the largest of the state banks, carrying at the time of its failure approximately 6 per cent of their total deposits. By wide-spread advertising and an exceedingly liberal policy, it had increased its deposits from $365,000 in September, 1908, $110,000 of which was due to banks, to $2,805,000 in September, 1909, of which $1,321,929.31 were individual deposits, $1,311,696.17 were deposits by other banks, and $172,383.13 a deposit by the state treasurer. The phenomenally rapid growth of this bank was frequently pointed out as an example of the beneficent effects of the deposit guaranty law.

At the time of its failure, its liabilities were

Individual deposits	$1,165,747.42
Savings deposits	75,061.36
Certificates of deposit	353,184.86
Deposits of other banks ..	1,293,385.73
Cashier's checks	10,090.96
Certified checks	3,577.60
Aggregating	$2,901,047.93

To discharge the duty imposed by the statute of immediately paying the depositors, there was then in the guaranty fund only about $400,000, a part of which (said to have been $60,000) was in the Columbia Bank. The fund had not long previously been drawn upon to

the extent of $40,000 to pay deposits to the amount of $78,000 in the First State Bank of Kiefer.

An emergency assessment of ¾ of 1 per cent was made, under which the banks are said to have had to pay $248,000. The president of the Columbia Bank and others were persuaded by the bank commissioner to turn over property valued at $563,600.

The liquidation of the deposits, however, proceeded rapidly. The policy was adopted of paying the moderate accounts first, those of other banks being left till the last. A statement made by the bank commissioner a month after the failure showed that $503,000 of the guaranty fund had been used, and that deposits to the amount of $411,000 remained unpaid. On November 13, 1909, the commissioner stated that the amount due banks had been reduced to $190,000, and on December 6, he announced sufficient cash on hand to pay all individual deposits and all holders of certificates.

An interesting development, from a legal standpoint, was that the courts held that public deposits insured by surety companies were insured by the fund, and therefore that the sureties were entitled to reimbursement therefrom.

Mr. Thornton Cooke, from whose account of the failure[15] the foregoing statements are drawn, deduces the conclusions that the guaranty law, while not responsible for the failure, was, by making it easier to get deposits, answerable for its magnitude; and that although depositors may be paid rapidly with the aid of a guaranty fund, payment immediately upon a failure cannot be promised.

Although the difficulties arising from this failure were thus successfully surmounted, it seems to have had some unfavorable ulterior effects. The charge was made that the bank was "in politics," and criticism of the administration of the guaranty fund was current. The bankers smarted under the emergency assessment; and it is charged that the banking board, fearing to arouse further protest, guaranteed the paper of weak banks which should have been closed instead. The cloud of recrimination thus stirred up may have had its effect on public sentiment; at any rate there seems to have been from this time on a shifting of deposits to the national banks, as appears from the tables above given (due in part, however, to the nationalization of state banks). A curious reversal of the earlier situation appears in the number of conversions of state into national banks and of applications for national charters, as shown by the following table:

TABLE SHOWING FLUCTUATIONS IN NUMBER OF NEW NATIONAL BANKS IN OKLAHOMA.

(Based on Reports of the Comptroller of the Currency.)

During year ending Oct. 31	1908	1909	1910	1911
Number of National Banks Chartered	8	4	13	63
Number of State Banks converted into National Banks	5	1	5	20
Number of National Banks to go into voluntary liquidation	24	72	7	10

The number of national charters granted in 1911 seems the more remarkable in view of the fact that it is more than one fourth of the total number, 214, granted throughout the United States during the year. In the states of Massachusetts, New York, New Jersey, and Pennsylvania, only twenty-nine, and in the Pacific states only twenty-eight, were granted during the same period. Of the ten national banks to go into liquidation in Oklahoma during the year ending October 31, 1911, one was succeeded by a new national bank, two were absorbed by other national banks, one was succeeded by a state bank, and five were absorbed by or consolidated with state institutions. Evidently the prevailing belief is that national banks have nothing to fear from the competition of guaranteed banks.

Unfortunately it has not been possible to secure, in time for publication in this article, complete information as to the extent of the demands which have been made upon the Oklahoma fund, or

[15] Quarterly Journal of Economics, vol. 24, p. 327.

the number of emergency assessments which have been necessary. An investigation by the state bankers' association is reported to have shown that $878,-352 were needed in the first three years of the operation of the guaranty law, and that the depositors of ten banks had been the recipients of the fund.[16] On March 2, 1911, the banking board which came into office in January of that year called for an emergency assessment of 1 per cent, not on account of any particular failures, but, as stated, to place the fund on a "solid and substantial basis." Some difficulty is said to have been experienced in collecting this assessment, which also stimulated a demand for national charters.

A statement of the condition of the fund for the quarter ending September 30, 1912, reports cash on hand (including certificates of deposit) $110,974.88, and a letter from the bank commissioner[17] states that there is a little over a million dollars of notes and assets belonging to the fund, acquired from failed banks. The commissioner states that the law, while completely protecting depositors, has proven rather expensive to the bankers; but that an endeavor is being made to procure certain amendments which will make the guaranteeing of deposits less costly.

In concluding this survey of the operation of the Oklahoma statute, it is interesting to note the opinion of Mr. Cooke, expressed in the article already mentioned:[15] "For the present, the success of the Oklahoma plan will be dependent on good luck. It takes seventeen years to accumulate the fund of 5 per cent of deposits provided for by the guaranty law, and, in view of the large deposits to be insured in single banks, it is doubtful if even a 5 per cent fund would always be adequate to the immediate payment of depositors. If further heavy losses do not occur for a number of years, the guaranty fund may grow into a sufficient reserve. Until then, the plan will be an experiment only. The objection of the size of particular risks is inseparable from state-managed deposit insurance, and can be overcome only by engaging private enterprise in the deposit insurance business."

In Kansas the guaranty act was not put into operation until after its constitutionality had been affirmed by the United States Supreme Court. Participation in the guaranty fund is optional, and about $60,000,000 of the $90,000,-000 on deposit in state banks are found in the guaranty banks.

There is at the present time in the fund in bonds and cash $424,580.13. Since the institution of the fund, there has been but one failure, and guaranty certificates have been issued to the extent of about $30,000; but the assets of the bank are expected almost, if not entirely, to redeem them without resorting to the fund.[18]

In Nebraska, the enactment of the compulsory guaranty law gave rise to but little activity in the organization of new banks. No national banks were converted, and some state banks nationalized.

There is now $555,000 in the guaranty fund, and there have been no failures of banks since the law went into effect, March 30, 1911.[19]

The Texas guaranty act went into operation on the first of January, 1910. The suspension of a Houston bank in August, 1911, necessitated the paying out of something over $100,000, nearly all of which was expected ultimately to be recovered from the assets.[20]

Edwin S. Oakes

[16] Outlook, May 20, 1911.
[17] Under date of October 10, 1912.
[18] Letter from Bank Commissioner, October 7, 1912.
[19] Letter from Secretary of State Banking Board, October 9, 1912.
[20] Forum, June, 1912.

The National Banking System and the Proposed National Reserve Association

BY DAVID PERRY RICE

Of the Seattle (Wash.) Bar

AT the Banker's Convention of 1908 at Denver, Woodrow Wilson, then President of Princeton University, now governor of New Jersey and presidential candidate, bravely uttered a striking fact in a hostile camp. His utterance was that the most striking fact about the actual organization of modern society is that the most conspicuous, the most readily wielded, and the most formidable power, is not the power of government, but the power of capital.

If such is the condition, as it is, our government is not yet a democracy. The people, certainly, ought to reverse this condition, else democracy will never actually prevail here. And Governor Wilson urged the bankers to co-operate with the people in making the power of government the predominant and formidable power.

During many years, various plans have been incepted to meet existing conditions, and recently "the Monetary Commission" was appointed by the President of the United States, for the purpose of suggesting changes in the national banking system, which would remedy its general defects.

The Proposed Reserve Association.

Among the plans submitted to this Commission is one proposed by Nelson W. Aldrich, of Rhode Island, which has received public notice and considerable commendation. This plan contemplates the charter by the United States of a national reserve association, the stock of which may be subscribed for only by national banks, individuals being prohibited membership in it. The United States, under the plan, is to be divided into fifteen districts, each district to have a branch of the reserve association and a board of directors, and from these local boards is to be chosen fifteen of the forty-five boards of directors of the reserve association, and twelve more are to be chosen from representatives of the banks; these together composing twenty-seven of the forty-five, being delegated to select twelve other members. Thus, under this plan, representatives of the national banks are authorized to select thirty-nine, or all the members of the board of directors of the national reserve association, except six who are members *ex officio*. The governor and two deputy governors are to be appointed by the President of the United States.

Is it necessary to note in the plan a board of supervisors and an executive committee elected by the board of directors referred to? The reader will pause and ask, What voice have the government and individuals, outside of banking circles, in the control and management of the proposed national reserve association? And, if no voice, Does not the plan suggested by Mr. Aldrich upbuild a gigantic concentrated financial monopoly over the whole United States?

Referring to a feature of the plan, not of management, it provides that the present function of individual national banks to issue currency notes shall cease, and that function be the exclusive possession of the national reserve association up to a fixed limit, with further authority in this one association to issue unlimitedly such notes on the condition of a tax varying from 3 to 6 per cent.

Again, the reader may pause and inquire, Is it necessary, and would a transfer of the power of issuing and circulating currency notes from individual national banks to the Proposed Reserve Association, or the grant of a concentrated power of issuing an unlimited amount of such notes, be considered justly from a governmental standpoint to remedy any defect in the present national bank system?

The writer proposes to answer these questions, after refreshing the reader's memory in regard to the existing national bank system on the points of currency issues and supervision by the government, by a discussion of the principles involved and the methods which other nations employ as a deterrent against financial crises and the prevention of a private financial monopoly.

Concentration of Power.

The stupendous importance of such a discussion is manifest by recalling to mind the aggregate deposits held in the 6,824 national banks during a recent fiscal current year, which was $5,464,600,000 representing over 10,000,000 depositors.

Banks are, at least, quasi public institutions, and have been established to serve the people primarily in commercial enterprises and as a safeguard against monopoly and financial crises.

The great reason for the failure of our banks to fulfil the purposes of their establishment is that they are, to a greater or less degree, dominated by special interests and the money power, although their deposits belong to the rank and file of our citizenship.

A patent example of the method by which the money power dominates finance is seen in buying up bank stock. Wall street bankers, and the stronger bankers in other civic centers, from time to time, are able by the investment of several hundred thousand dollars only to buy up the stock of banks controlling millions of deposits. One instance has recently been reported by one New York banking house, of such a purchase for a few hundred thousand dollars of certain banks containing $9,000,000 of deposits. Gradually, the great banking houses are swallowing up the smaller, and a more concentrated money power results.

National Banking Law.

There are few citizens who are not familiar with national laws concerning bank incorporation, private management, and periodical examination by examiners appointed by the National Treasury Department.

The national banking law, upon which our present currency system is founded, was enacted during the Civil War, in an emergency, to create a market for the sale of United States bonds and for other purposes, and minor amendments only have been made since that time.

Currency Issues.

The two chief provisions or subjects of this law relate to governmental supervision by national bank examiners and to currency note issues by individual banks. It is important to discuss both subjects, and the latter will be referred to first.

The law requires of each national bank a cash reserve, and permits each bank to issue currency notes to the amount of one half its capital stock upon a sufficient deposit of United States bonds in the National Treasury.

This provision renders it necessary for each bank to purchase such bonds and invest its funds therein. In consequence its capital is tied up in those bonds, and it is this capital which is needed by each bank for commercial purposes, especially in times of stringency. In other words, this provision fails to provide for any plan to adjust the money supply of each bank to the money demand at all times. All funds of national banks ought to be easily convertible into cash within periods of three or four months as a safeguard against stringency in circulation.

The necessity of such a change in the law has been indirectly recognized by the Aldrich-Vreeland act, which provides for the issuance of emergency currency. This act marks a transition into enlarged powers of operation, and its principal provisions should here be noted.

The act provides that a national bank having outstanding notes secured by bonds in an amount equal to 40 per cent of its capital, and having a surplus of 20 per cent, may, under the direction of the Secretary of the Treasury, take out additional circulation in times of emergency, to be secured either by certain bonds other than United States bonds, or by any security, including commercial paper, which are held by a national banking association. The transition is noted in the fact that commercial paper is recognized by law as security for currency issues. Such commercial paper must represent actual commercial transactions, and bear the names of at least two responsible parties, and have not more than four months to run. But should a bank wish to make use of commercial assets as a basis for its emergency circulation, it must act through a national currency association which must be composed of at least ten banks, having an aggregate capital and surplus of $5,000,000.

It must thus be readily noticed that the Aldrich-Vreeland act authorizes the use of additional circulation in times of emergency only, such as a financial stringency in the money market, but not in the course of ordinary business conditions. The Civil War requirement, therefore, of the deposit in the National Treasury of United States bonds as security for ordinary currency issues by each bank, is still the prevailing rule.

Why the provision of the Vreeland act making commercial paper a lawful security for emergency issues should not be applied to issues in the ordinary course of business conditions is not yet clear.

Indeed the history of the banks of other nations establishes a successful precedent in favor of their application to issues in the ordinary course of business.

Foreign Banking Systems.

A general knowledge of the scientific systems of other countries,—such as Germany, Scotland, and Canada, may therefore render service and assistance in the formulation of more practical banking principles for the United States.

The chief object and function of a national bank is to regulate the money market and to facilitate exchange operations. And the national banking systems of the nations to be examined operate to do these essential things.

The banks of Germany, Scotland, and Canada are all free banks, and the stock of each is privately owned, the same as the stock of the Bank of England. These banks are authorized to issue an unlimited amount of bank notes upon certain well-defined conditions, which is denied to banks in both England and the United States.

In Canada the security of bank-note issues is attempted without requiring banks to hold a cash reserve, by means of laws providing for a duplicate liability of shareholders; a first lien of note holders upon the assets of an insolvent bank; a bank circulation redemption fund of one per cent per year, and a 6 per cent interest rate on notes from date of refusal to redeem to the date of payment. Under the operations of these provisions the credit of the Canadian banks stood unassailed and unimpaired in the great financial crisis of 1893.

In Germany the security of bank-note issues is attempted by the requirement of a cash reserve of one third of a certain fixed amount, and currency notes may be issued against the other two thirds without restriction; and all note issues exceeding this fixed amount must be covered by a cash deposit or is subject to a tax of 5 per cent yearly. Weekly reports are required by the government on the subject of note circulation, and upon the excess of circulation shown above the limit fixed, a tax of $\frac{5}{8}$ of 1 per cent is at once assessed, representing approximately the tax for a single week. The operation of this latter rule of emergency note circulation has been availed of several times, and has proven salutary in averting such financial stringency as has been felt in England under the act of 1844, which absolutely limits note circulation. Explaining further,—the authorized note circulation is required to be covered by bills of exchange maturing in not more than three months and bearing not less than two solvent names, and long-term

bonds are not used in Germany as a basis of currency issues.

In Scotland, the authorized circulation of notes, not covered by the cash reserve, is limited in time, and the commercial paper by which it is secured must bear the vouchers of two or more trustworthy persons.

The methods of note issues in Germany and Canada are undoubtedly safer and more practicable than in any other country.

Direct Governmental Control of Bank Management.

In turning to a consideration of the methods of bank supervision and management it must be said that in these matters, or the principle of them, Germany's is far superior to those of any other country, including Canada.

For the method of public control of banks in Canada is its most insecure feature. These banks are subject to governmental inspection of accounts and the security of the general creditors by examiners, the same method as now exists in the United States. The insecurity of such a method is self-evident. There is always great danger of collusion between the appointed examiner and the management of a bank.

In contrast to the methods in use in the United States and Canada, the system of bank management in Germany is as follows:

The supreme control of the Imperial Bank of Germany rests in the Council of Curators, which consists of the Chancellor of the Empire, who occupies the position of president, and four other members, one named by the Emperor, and the other three named by the Federal council.

Private stockholders are represented by fifteen members who are elected by the general assembly of shareholders from their own numbers, and one third of this board is elected every year. Many of the details of management are remitted to this board, so long as its course of action does not meet the disapproval of the Council of Curators. The board examines monthly reports, inspects deposit accounts and the rate of note discount, and determines the note circulation.

It ought to be noticed that the final supervision and authority over all acts of the board rests in the Council of Curators, which wholly represents all the people of the Empire and the government. Inasmuch as the financial status and policy of a nation and the regulation of the money market are the vital concern of all its people, that status and regulation should not be within the ultimate control of its few stockholders; and the public control of the German Imperial Bank by representatives of the nation is right and effective. But, in a republic or democracy, like that of the United States, this control should be exercised by republican forms of control and administration. And the truest form of a republican control of banks is represented by an elective board of management. Enough of the scientific German banking system is before us to enable one to understand the principles of the methods employed.

Absence of Direct Governmental Authority in Proposed Law.

A view of the two chief defects and weaknesses of the national banking system of our own country is, also, before the reader; and may it be carefully noted that the reserve association bill wholly fails to provide for any governmental authority, similar to the powers of the German Council of Curators, over the board of directors of the reserve association.

Let us answer, therefore, the following question: Does a correction of these defects involve the necessity of a change from the autonomous and independent national bank to one central national bank with a network of branch banks? A mere statement of the facts would seem to make the answer clear.

Flexible Currency System.

It is insisted, however, by many persons that the function of national banks as a regulator of the money market can be successfully performed only by and through a central bank. It is clear that a solution of this question involves an understanding of the defects in the national laws relating to currency-note issues. These laws have already been set forth and their defects explained. Sure-

ly, a change in these laws, looking to a more flexible currency system, and requiring national-bank funds to be invested in securities which shall fall due every few months and its money value be returned to its treasury for availability and use is the necessary one and ought to operate without any interference with the independence of the existing national banks,—because the necessary change relates to the manner of investment of funds and its limitation, and to adequate supervision over each bank by the electors of each national district rather than to any relation which one bank bears to another or to all other banks.

It is asserted, however, that during the "panic" of 1907, there was adequate capital or money in the United States with which to regulate the money market and facilitate exchange operations; and, furthermore, it is claimed by men, whom I believe are in some way interested in the continued control of national finance by "the system," that if one central bank had been in existence and in control, this money could have been kept in circulation, or controlled, so as to have restored confidence throughout the nation. It is difficult to realize how this could have been assured under any central control if the officers exercising such control should be of the same "stamp" and selected by the same "special intertests" as now dominate the large national banks in the great financial centers. For, with the amount of money claimed to be in existence, there was no cause for a panic until this confidence failed. After all is said in regard to the panic of 1907, the conclusion seems irrepressible that there was plenty of money circulating among the people, but the management of certain national banks, which are regulators of the money market in the United States, had allowed their reserves in many instances to become less than the laws required, through loans to the great banks of New York and other financial centers, and deposits had, also, been transferred to these same banks which were used too largely for speculative purposes, rather than to promote legitimate business. The depositing banks became short of funds thereby, and a large amount of their banking assets were, also, tied up in United States bonds, which assets should have been available for use every few months to guard against stringency. In view of all these conditions, there was no power to turn the wheels of finance, because the motive power (its assets or money) were wanting.

The cause of the panic of 1907 was largely bank misplacement of funds, lawful and unlawful, and lack of power to issue more currency notes. It was not attributable in any way to the existing plan of autonomous national banks. That this is true is evident from the method adopted in alleviating the panic,—the issuance of clearing-house certificates. Such issuance is now authorized by the Aldrich-Vreeland act in emergencies and legalized, but this authorization applies and is adaptable to the individual bank system, and does not apply to or necessitate the centralized bank.

The reason for the present law which requires the issuance of currency notes to be secured by the deposit of long-term United States bonds is now considered to be obsolete, because government funds may be raised in other ways. It is also considered obsolete, because scientifically and commercially indefensible. Neither is it apparent why that provision of the Vreeland act which requires currency notes to be secured by gilt-edged commercial paper, or bonds, should be confined to times of emergencies. As has heretofore been suggested, a flexible currency system demands that regular note issues should be authorized upon the security of reliable commercial paper, and another plan adopted for note issues in times of emergencies. This latter plan is an advanced step, and would grant authority to national banks to issue additional currency notes beyond a prescribed limit, upon the deposit in the bank, or with the Secretary of the Treasury, of a dollar in money for every dollar of excess note issue; or, upon the payment of a tax thereon in monthly instalments. In such requirements there is adequate security.

Neither does change in the methods necessary to cure the defects and weaknesses in the present method of public

control of national banks involve the necessity of a central bank.

Central Bank Unnecessary.

Bearing in mind that public control is now exercised through and by appointive bank examiners and inspectors who are designated by the Department of the Secretary of the Treasury, and that the greatest danger is always imminent of collusion between such examiners and the officers of the bank examined, because of strong political influence which bank officers are now able to bring to bear upon examiners who hold office under the tenure of appointment, not to refer to constant superficial and incompetent examinations,—the remedy clearly is to secure bank examiners who shall obtain their office from and be directly answerable to those who hold the right of suffrage.

Let Congress therefore provide for a board of national bank supervisors in each state or territorial division, which may be intelligently controlled by the people, to be elected in each division for terms of from two to four years, subject to the recall, and this board of supervisors to have complete authority of examination and inspection of all banks within its district, supervision of note issues, and authority to compel a compliance with national banking laws.

This solution is simple and plain. Both stockholders and depositors with the government must have representative control of their national banks, the former by their directors, the latter by public supervisors, and this plan accomplishes it.

The foregoing facts and considerations seem to clearly answer in the negative the question, Is one central national bank necessary for the purpose of reformation of our national banking system? While the existing weaknesses are inherent in the inflexible method of note issues and inadequate public control, the correction of which do not demand a central bank, yet, on the other hand, there are certain strong objections to the establishment of a central bank, involving the difficulty and danger of attempting to supervise one bank in so great a territorial extent as is comprised within the United States and inhabited by 90,000,000 of people.

National Clearing Houses.

It is believed that a system of central and district clearing houses ought to be authorized by the Congress, and providing for adequate methods of supervision of such clearing houses by an executive committee selected by district supervisors. Such clearing houses would exist for the same reason and the same purpose and with the same functions as city clearing houses now exist, *viz.*, simply to facilitate commercial interrelations between the banks themselves. Clearing houses of such a description would need no power to issue currency notes or to control the individual banks. And if clearing houses would need no such powers, why do we need a central national bank with such powers? If such powers are not necessary in a central institution, there is no adequate reason for the establishment of a central bank. The system here advocated of elected district supervisors over national banks, and district and central clearing houses under their control, with power to issue an unlimited amount of currency notes under certain defined protective regulations, would relieve the present situation, and would be a greater protection to the public against financial crises and monopoly.

But there is a more radical remedy for the problem of rendering the power of government more formidable and more readily wielded than the power of capital.

Governmental Issue of Currency.

It is that the Federal Government assume the exclusive power over the issuance of currency notes and money, and withdraw such existing power from the national banking corporations.

And it is merely an incidental power of the same kind for the Federal government to issue currency notes to state, municipal, and other political units, upon the security of their official bonds, without any requirement of interest payments.

David Perry Rice

Banking Reform

BY HON. FRANCIS G. NEWLANDS

[Ed. Note.—Senator Newlands has offered a comprehensive plan of monetary and banking reform in opposition to the Aldrich plan. He has issued the following statement of his views, which we present herewith by his permission.]

LOGICAL national legislation on the banking question involves, in my mind, the recognition of interstate exchange as a branch of interstate commerce by taking hold of and regulating the state banks engaged in interstate exchange, just as we take hold of purely state railroads that are engaged in interstate transportation. The purpose of the legislation being to prevent paralysis of interstate exchange through constantly recurring bank panics, any legislation which leaves the state banks out of consideration as factors in the maintenance of an unimpaired interstate exchange is sadly lacking, for the state banks to-day equal the national banks in the extent of their capital, deposits, and credits. They are all engaged in interstate exchange, and constitute links in the general banking system of the country; and just as the strength of a chain is that of its weakest link, so it may be claimed that the strength of our banking system is affected by the condition of its weakest bank, and that all banks, both national and state, must be regulated by the national government in the interest of interstate commerce.

Strengthening the Individual Banks.

I would first strengthen the individual banks by requiring of them a certain relation of capital and reserves to their obligations. As it is, the national banking act prescribes no proportion between the capital of a bank and the amount of deposits it can receive. The capital of a bank constitutes the margin of security upon which depositors rely. Sound banking requires that it should equal 20 per cent of the bank's obligations. I would not at first, however, attempt to reach this limit, but would simply provide that every bank should maintain a capital and surplus equal to 20 per cent of its deposit obligations.

As to reserves, sound banking requires that a bank should keep on hand at least 20 per cent of its deposit obligations in order to meet the current checks of its depositors.

The national banking act requires 25 per cent reserve in central reserve cities, of which all must be kept in cash; a reserve of 25 per cent in reserve cities, of which one half can be deposited in central reserve city banks; and 15 per cent in the country banks, of which nine fifteenths, or three fifths, can be deposited in reserve city and central reserve city banks.

I would not, at present, increase these reserves, but I would diminish the proportion of the reserves which the country banks can deposit in other banks at the rate of one fifteenth annually, until such permitted deposits in other banks reach five fifteenths, or one third, of the total reserve; and there I would stop for the present.

I would also diminish the proportion which the reserve city banks can deposit in the central reserve city banks at the rate of one twenty-fifth annually until such permitted deposits in central reserve city banks reach five twenty-fifths, or one fifth, of the total reserves instead of one half, as at present.

The State Banks.

I would require the same capital and reserves of state banks engaged in interstate exchange as are required of national banks; but the question is wheth-

er this shall be made coercive or persuasive. I have no doubt of the power of the national government to compel state banks, as instrumentalities of interstate commerce, to comply with its regulations as to capital and reserves; but as this is a comparatively new contention and may arouse opposition to any general measure which contains it, it might be well to make it merely persuasive by providing that state banks may become members of the national reserve association, hereafter referred to, upon complying with the requirements of the national banking act as to capital and reserves and as to examination and inspection by the national government.

Unionizing Banks for Protection of Depositors and for Prevention of Bank Panics.

The next step would be to unionize the banks for preventing bank panics and the interruption of interstate exchange by enabling them to summon their reserves to any point of danger, just as the government concentrates its troops at the point of attack.

The Aldrich plan centralizes these at Washington by the creation of a reserve association of America, embracing in its membership as stockholders all the national banks, and dividing the country, regardless of state lines, into sixteen subdivisions or zones, in the most prominent commercial city of which is located a branch of the reserve association.

There are two objections to this,—one, that it practically creates a central bank, concerning which there will be a great difference of opinion between the two political parties; and the other, that, with the concentration of the money power of the country now existing, such central bank would fall under the control of such power, and that the perversion of the proper function of banking from that of advancing exchange to that of promotion and speculation would continue. Even if the Aldrich plan be theoretically and economically sound, I regard it as utterly impracticable at present, because of the balance of the political parties, each controlling a part of the government, and because of the universal distrust of certain powerful banking groups, to give it the sanction of law. Nor do I think that the reasoning regarding a central bank which would apply to similar institutions in England, France, and Germany can be applied to America, a Union of forty-six states, most of which in area and population will sometime rival those great countries.

It must be recollected also that in those countries the national power is absolute over commerce in its entirety, whilst in our country the national government is absolute only in interstate and foreign commerce, the state commerce being under the jurisdiction of the respective states. As, therefore, commerce itself under our system of government is divided into two parts,—one part under the control of the states and the other part under the control of the union of states, or the nation,—it is desirable that, in the exercise of the regulating power, we should have regard to the states as the units or subdivisions with reference to which the national power is to be exercised; and we should endeavor to bring about co-operation and harmony between the individual states, on the one hand, and the union of states, on the other, in the regulation of our commerce.

I would therefore organize under national law a reserve association in each state, to be formed by the national banks of each state; membership in which I would grant also to state banks engaged in interstate commerce, as all except the savings banks are, upon compliance with such requirements as to capital, reserve, investigation, and correction as exist with reference to national banks.

I would provide that such reserve association should have the power to examine the individual banks composing its membership, and to exercise a certain degree of corrective power over them, and that it should have the power to insure the depositors of each individual bank composing its membership. Some speedy method should be provided for immediately taking over the assets and paying the depositors of any failing bank. I would give to such state reserve associations such of the powers, rights, and privileges given by the Aldrich plan to the proposed central reserve association

as may be deemed desirable. In other words, I would endeavor to create in each sovereign state a financial center for that state, holding a position with reference to the state similar to that which New York holds to the United States.

As the banks of some of the smaller or weaker states might not be strong enough to form reserve associations under this plan, I would grant them the privilege, if they so desired, of joining a reserve association organized in an adjoining state.

I would turn over to such reserve associations all the note-issuing functions of the individual banks constituting its membership, including the issuing of emergency currency.

Federalizing the Association.

I would then federalize these state reserve associations through the organization of a national banking board, of which a certain proportion of the members should be selected by the national reserve associations, under some plan that would promote proper geographical distribution; the national government, through the President, with the aid and confirmation of the Senate, to name the other members. I would make the Secretary of the Treasury the chairman of such commission and the Comptroller of the Currency its secretary.

I would not, in the first instance, give such commission large powers, but would invest it with powers of examination, correction of evil practices, and recommendation to the President and to Congress. I would expect the national banking commission, by a process of evolution, to gradually increase in its powers as the result of experience in administration and legislation, and I would expect it to perfect a system of co-operation with the banking commissions of the respective states.

Note-Issuing Functions.

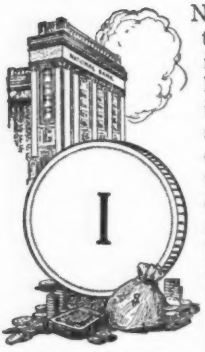
I do not understand that Mr. Aldrich's plan provides for any additional currency, unless it be emergency currency. It simply provides that all the existing note-issuing functions of the national banks shall be turned over to the reserve association of America, of which the national banks are constituent members. The national-bank notes during the past ten years have increased from about $300,000,000 to over $600,000,000 as the result of the increase of the percentage of the bond security available for note issue, and also as the result of the increased amount of United States bonds. The national banks also have the power to issue emergency currency to the extent of $500,000,000, the retirement of which is forced by a gradually increasing interest rate or tax.

None of the latter is now extant. Under the Aldrich plan, therefore, the National Reserve Association would have the power to keep outstanding the present issue of national-bank notes of over $600,000,000, and I think a similar provision should be made that the National Reserve Association of each state should take over the note-issuing functions of its constituent members. I would see no present necessity for changing the character of this issue. I would allow it to be gradually retired by the payment of the bonds themselves, or by refunding such bonds into national bonds similar to the Panama Canal issue, bearing a rate of interest of about 3 per cent and without the note-issuing privilege. . . .

If stability in the value of the medium of exchange is desirable, it is clear, all other things being equal, that as the number of basic dollars increase the number of paper representatives should diminish, and paper representatives should only be availed of in order to tide over the time when there is a diminution in the production of basic dollars and a danger of a fall of values through contraction. . . . Indeed, the only occasions upon which credit money is needed at all under existing conditions is when a bank panic comes, and depositors withdraw from the banks the actual dollars which stand at the base of the loan and deposit system. Then an emergency arises which necessitates some substitute in the shape of paper money which can be used as legal tender, and can be paid out as a substitute for the basic money.

The United States Postal Savings Bank

BY EDWIN W. KEMMERER, PH.D.



IN June 25, 1910, by the signature of President Taft and largely as the result of his influence, the postal savings bank bill became law. Thus after nearly forty years of discussion, occasionally rising to heights of agitation, as during the administrations of Postmasters General Creswell, Wanamaker, and Meyer; after eight postmasters general had recommended the establishment of postal savings banks,[1] and ten times as many bills[2] had been introduced into Congress for this purpose, the United States finds itself in line with most of the other great nations of the world in this matter.[3] This is not, however, the first experience of the United States with postal savings banks. To be exact, this will be the third postal savings bank to exist under the American flag; the first being the Hawaiian postal savings bank, which was established in 1886 and was closed shortly after the American annexation in 1898, and the second being the Philippine postal savings bank, which has been in successful operation since 1906. . . .

Competition.

An objection repeatedly urged against the establishment of a postal savings bank was that it would prove a competitor to existing banks. The fear of such competition appears to have been the chief cause of the opposition of most members of the banking fraternity to all postal savings banks proposals.[4] Senator Cummins, of Iowa, said in the Senate: "The banks of the United States are opposed unanimously to the institution of a postal savings system. . . . I venture the assertion that during the nearly two years that I have been a member of this body . . . I have received the protests of nearly every bank in my state against any such scheme, and those protests have usually been accompanied by a very large number of petitions, secured, I have no doubt, through the industry and energy of the bank officers." [5]

[1] The recommendations of postmasters general from 1871 to the present time, together with other valuable material illustrating the movement for postal savings banks in the United States, are summarized in a speech in the House of Representatives by George Edmond Foss, of Massachusetts. Congressional Record, June 20, 1910, pp. 8709 et seq.

[2] For a list of bills, see Report No. 1445, House of Representatives, 61st Congress, Second Session (June 7, 1910), pp. 63–66.

[3] For descriptions and statistics of the different postal savings banks of the world, see Notes on the Postal Savings Banks Systems of the Leading Countries, National Monetary Commission Report, Senate Document No. 658, 61st Congress, Third Session.

[4] The American Bankers' Association was very active in its opposition to a postal savings bank. A committee on postal savings banks of the savings-bank section of the association carried on for nearly three years an active propaganda against postal savings-bank legislation, distributing over the country an immense amount of literature and maintaining an active opposition at Washington. Cf. Chronicle, Bankers' Convention Supplement, 1909, pp. 207, 208, 211. The following resolution of the American Bankers' Association at its convention of 1908 (Chronicle, Supplement, 1908, p. 131) is fairly representative of the attitude of that association and of numerous state bankers' associations throughout the country: "Resolved, that it is the sense of this association that we should condemn in unqualified terms the proposition for the establishment of postal savings banks or any other system by which the government enters directly into banking relations with the people."

[5] Congressional Record, June 20, 1910, pp. 8811, 8812.

It was argued that postal savings banks would have an undue advantage over private institutions, because of the great confidence in the government entertained by working people; and it was asserted that funds would be withdrawn from existing banks and deposited in the postal savings banks. On this point the experience of England was repeatedly cited, where there was a "marked tendency" for the postal savings bank "to absorb the patronage that had been built up by the trustee banks."[6] In reply, the advocates of postal savings banks claimed that existing banks had nothing to fear from governmental competition; that they had the advantages of an established clientele, higher interest rates, higher limits, if any, in the amounts that could be kept on deposit, and of the close personal and advisory relation which so often exists between a bank and its customers. They further argued that postal savings banks would be a help, rather than a hindrance, to other banks. They would educate the people to habits of thrift, and would draw money out of hoards; and the deposits which they received would, for the most part, be transferred to other banks as soon as the limit fixed for postal savings-bank deposits should be reached, or even before, as the depositor began to appreciate the safety of other banks and the advantage of their higher rate of interest. If the postal savings banks were serious competitors of the trustee banks in England, it was pointed out that this was largely because of the shortcomings[7] of these private banks; in most other countries, notably in Italy,[8] the Netherlands,[9] France,[10] and Hungary,[11] they had been found to be not competitors, but coworkers.

Bank Failures.

The immediate occasion of the last active movement for a postal savings-bank system in the United States was the losses and inconveniences arising from bank failures, and from the suspension of cash payments in the panic of 1907. Naturally, therefore, the demand for greater safety of savings deposits played an important part in the discussion.

The advocates of postal savings banks cited figures showing the number of national bank failures and the losses involved, and similar figures for savings-bank failures in certain states. They made much of the large amounts involved and of the hardships in individual cases. On the other hand, the opponents of the postal savings-bank scheme quite generally dealt with percentage figures, rather than with absolute amounts, and showed that for recent years the average losses, in terms of percentage of the amounts on deposit, were almost infinitesimal.

The figures cited for bank failures, so far as they relate to savings deposits, are so incomplete as to be of doubtful value in measuring the extent of the losses.[12] Those given by the Comptroller[13] show that during the eighteen years, 1892–1909, there were in the United States 1,523 bank failures (exclusive of national banks), with total assets of $457,640,000 and total liabilities of $565,345,000. In these figures are included 153 failures of banks which were strictly savings banks, with assets of $47,717,000 and liabilities of $51,786,000. Within the same period 344 national banks failed (exclusive of those restored to solvency and permitted to resume business within a year of report). In these national-bank failures the net loss to depositors so far reported (the *data* relative to losses are still incomplete) has been $16,806,062.[14] Doubtless a considerable percentage of this sum represented small accounts of a saving or "semisaving" character; how much, we do not know.

[6] Hamilton, Savings Institutions, p. 354. Cf. also William Lewins, History of Savings Banks, pp. 322 et seq.

[7] Cf. Lewins, chaps. 6, 7 and pp. 322 et seq.

[8] Hamilton, p. 373; also House Report No. 1445, 61st Congress, Third Session, p. 2.

[9] Hamilton, p. 380.

[10] Ibid. pp. 381, 383.

[11] E. T. Heyn, Annals of the American Academy of Political and Social Science, vol. VIII. p. 488.

[12] Commenting upon this subject, Miss Florence Kelly recently said: "It is one of the gross sins of omission of our government (state and Federal) that we have no trustworthy *data* as to the extent of these losses year by year." Charities, vol. xxi. p. 718.

[13] Report, 1909, p. 69.

[14] National Monetary Commission, Statistics for the United States, 1867–1909, pp. 40, 41.

After all, such figures give us no adequate measure for losses of this kind. "Among the experiences of working people none is more demoralizing and few are more cruel than loss of savings through failure of banks or absconding of individuals intrusted with funds."[15] To such people there is cold comfort in the assurance that the average loss of savings-bank depositors over a long period of years is but a fraction of a mill on a dollar. The loss is theirs; it is not distributed among all depositors. . . .

Hoarded Money.

In urging that a postal savings bank would draw money from hoards into circulation, the advocates of the scheme claimed also that such a bank would keep in the United States money that would otherwise be sent abroad by foreigners. Although numerous estimates—more correctly, guesses—have been made from time to time as to the amount of hoarded money in the United States, we have no information of value on this subject. The distrust which causes hoarding makes it impossible to secure information concerning the amount hoarded. Much was made of the fact that every year many millions of dollars in money orders payable to self are bought for savings purposes. The number so bought in first and second class postoffices alone for the year ending March 1, 1908, was 127,623, representing a total value of $8,054,894.[16] In such cases the purchaser not only failed to receive any interest on his savings, but was required to pay the money-order fee. Many immigrants, moreover, distrust American banks, and, being familiar with postal savings banks in their home countries and having great confidence in government institutions, remit their savings to these home banks. How extensively this is done we have no figures to show.[17]

[15] Florence Kelly, in Charities, vol. xxi. p. 718.

[16] House Document No. 1445, 61st Congress, Second Session, p. 93.

[17] Cf. George von L. Meyer, "Postal Savings Banks;" North American Review, vol. clxxxviii. pp. 250–252.

Panics.

The immediate occasion, it will be recalled, of the strong agitation that led to the establishment of a postal savings-bank system was the panic of 1907. In the discussions concerning the bill it was therefore natural that much should be said of the position and influence of postal savings banks in times of panic. With the normal division of the funds received on deposit into three parts,—5 per cent held in cash at Washington, 30 per cent invested in United States government securities, and 65 per cent kept on deposit in selected banks and securities supported by the taxing power,—there need be little fear concerning the safety or availability of the funds in time of panic. Postal savings banks have existed for years in most of the principal countries of the world, and serious "runs" on them are almost unknown.[18] It is less easy to answer the question, How would the postal savings bank function with other banks in times of crisis? Upon this question the debate brought forth wide divergence of opinion. The advocates of postal savings banks took the position that they would greatly strengthen the financial situation in times of panic. At such times, they reasoned, the public would maintain confidence in government savings banks, no matter how much they should lose confidence in other banks. If they withdrew money from other banks, instead of hoarding it they would deposit it in postal savings banks, and these in turn would redeposit it in the local banks. From the depositor's point of view the result would be a loss of interest but the securing of a virtual government guaranty of his deposit; the local banks would have the same money they had before, only the government would be the depositor at say 2¼ per cent interest, instead of the indi-

[18] In 1893 there were runs on the postal savings banks in France, as a result of charges that the people's money was being sunk in the building of the Panama canal. Economist, vol. LI. p. 127. There were also runs a few years ago on some postal savings banks in England, because a political speaker made the assertion that the whole of the postal savings-bank deposits had been lost in the South African War. Bankers' Magazine (London), vol. LXXXII. p. 402.

vidual at a presumably higher interest rate. On the other side, it was urged that the difference between the interest rate paid by the postal savings bank and that paid by the other banks would be a matter of slight consequence in times of panic, safety of deposits being the great consideration; and that the accessibility of postal savings banks would result in excessive withdrawals from other banks, many of which would otherwise not have been made, in order to take advantage of the absolute safety offered by the government banks. The money so withdrawn would not flow back quickly to the local banks, it was argued, because the proposed law required the local banks to pledge as security for the deposit of postal savings-bank funds high-grade securities supported by the taxing power. How could the banks obtain money to purchase such securities in times of panic?

It is dangerous to prophesy what will happen in times of panic; an unbiased view of the situation, however, hardly seems to justify the optimism of the proponents of the postal savings-bank system or the pessimism of its opponents. The difficulty of securing, in times of panic, satisfactory collateral to pledge for deposits of postal savings-bank funds would undoubtedly be a real one. It would be mitigated, however, by the facts: (1) That the range of securities allowed by law is a very wide one, and that the trustees would doubtless be as liberal as would be consistent with safety in interpreting the law at such times; (2) that many banks would be the owners of acceptable securities, and in many other cases such securities could probably be borrowed. Apprehension that large sums of money would suddenly be withdrawn from other banks for redeposit in postal savings banks in times of panic is in some degree lessened by the following considerations: (1) Many of the most timid depositors, especially the foreign-born, will presumably keep their accounts in the government banks; (2) the great majority of depositors, as experience shows, never attempt to withdraw their savings deposits in times of panic; (3) savings banks generally reserve the right of requiring notice of thirty days or more for the withdrawal of any considerable sums; (4) no one is permitted to deposit more than $100 in any one calendar month in a postal savings bank, and no account can exceed $500 exclusive of accumulated interest. Finally, it is to be hoped that, before another panic occurs, our banking system may be so perfected that any solvent bank with good assets can count upon adequate assistance in case of a "run."

Inauguration of System.

Soon after the passage of the act the board of trustees decided that the $100,000 appropriated for inaugurating the system should be used to open one depository in each state and territory with the beginning of the new year. Such depositories were opened in forty-eight towns. At the end of February, these towns reported 3,664 open accounts, with total deposits of $133,869. Congress made an appropriation of $500,000 at the last session, which was made immediately available to enable the Postmaster General to extend the system. Up to July, 850 postal savings depositories had been established, and it was believed by the Postoffice Department that deposits would aggregate $1,000,000 by July 1. "The purpose of the officials to designate a hundred and fifty or more new postal savings offices a week, until all of the 40,000 money-order postoffices of the country have been made available for savings, measures their enthusiasm over the success of the new system."

The postal savings-bank system has thus been inaugurated on a small scale and with nothing like the elaborateness of plan or of function found in most countries. Wide discretionary powers, however, are given to the trustees, and they are extending and adapting the system with a wide conservatism. The success of postal savings banks in other countries, wherever fairly tried, is an earnest of their future usefulness in the United States.—By permission from Political Science Quarterly.

Editorial Comment

This bank-note world.—Fitz-Greene Halleck.

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Edited by Asa W. Russell.

Our Banking System.

Since the foundation of the Republic, discussion of questions of money and banking has been perennial. For nearly half a century debate centered upon the affairs of the first and second United States bank and the contest over a renewal of their charters. This period of conflict resulted in a compromise effected through the establishment of the Independent Treasury System, which, while keeping the government funds safe from the dangers of unrestricted private banking, left the public exposed to the hazards growing out of the financial weakness, uncertainty, and unwarranted expansion characterizing the latter system.

Our national banking system grew out of the stress and strain of Civil War. It was mainly designed to promote the disposal of government bonds, and incidentally to afford safe banking facilities. It has conferred greater security on depositors and note holders, and brought about uniformity in banking and currency; but its great fault is its inflexibility, which does not respond to the fluctuations of business requirements. Whenever, through crisis or otherwise, a large number of depositors call simultaneously upon the banks for cash, a money panic descends upon the country, and credit is destroyed. This condition was encountered in 1873 and again in 1893 and in 1907.

Governor Woodrow Wilson in a recent address at Columbus, Ohio, said concerning this subject:

"One of the things that makes the currency question most pressing and significant is that we are certain now, in my judgment, to remove some of the artificial obstacles to our prosperity in business, and the minute you do that there is to be such an increase in the economic activity of America that this stubborn, stiff, antiquated currency system of ours can't stand the strain. You've got to make it elastic, you've got to change it, or else you can't stand your own prosperity."

It is evident that if the volume of current money could be expanded to meet the needs of active business, and withdrawn when business slackens, we would establish a safeguard against financial panics. In the great commercial nations of Europe this problem was long since solved. The Aldrich-Vreeland act of 1908 tended in this direction. Its object was to relieve any exceptional stringency

in the money market and thus lessen the danger of a panic. Individual banks were authorized to issue additional notes up to 90 per cent of the value of approved state, county, or municipal bonds deposited by them. National banks, ten or more in number, were permitted to form a National Currency Association with power to take out additional circulation to the extent of 75 per cent of the cash value of securities of a general character deposited by them. Except for the organization of a few currency associations, there seem to have been no developments under this law. No emergency circulation has been issued, because no emergency has arisen.

Other defects of which complaint has been made, are the holding of reserves of all national banks in reserve or central reserve cities, and the lack of co-ordination and leadership among the banks. There is also a lack of a discount market and any form of standardized commercial paper.

National Citizens' League.

Discussion of the Aldrich plan has developed more general public interest in the subject of monetary reform than has prevailed in the United States in years. Various plans are being suggested, either as corollaries to the scheme of the brilliant Rhode Islander or to take its place entirely. Some of these are outlined in the preceding pages of this number.

The National Citizens' League was established in Chicago by leading business men somewhat over a year ago. Its object is to give organized expression to the growing public sentiment in favor of a sound banking system for the United States. A vigorous campaign of education follows its footsteps wherever it establishes branches.

The plan of the National Monetary Commission has been given extended study. The league, however, is not committed to any specific measure. If discussion shows that any other plan is superior to that now before Congress, it will support the plan.

The league has as yet no legislative proposal of its own, and is open to suggestions from any source. It is simply desirous of promoting public study of the question, with the idea of formulating a scientific scheme for the issuance by the government or under its authority of a safe and elastic currency. It does, however, present the following objects to be attained, which it hopes to see provided for by suitable legislation:

"1. Co-operation, not dominant centralization, by an evolution out of our clearing house experience.

"2. Protection of the credit system of the country from the domination of any group of financial or political interests.

"3. Independence of the individual banks, national or state, and uniform treatment, in discounts and rates, to all banks, large or small.

"4. Provision for making liquid the sound commercial paper of all the banks, either in the form of credits or bank notes redeemable in good or lawful money.

"5. Elasticity of currency and credit in times of seasonal demands and stringencies, with full protection against over-expansion.

"6. Legalization of acceptances of time bills of exchange, in order to create a discount market at home and abroad.

"7. The organization of better banking facilities with other countries, to aid in the extension of our foreign trade."

Banking for the Farmers.

The city population and the intelligent business interests are coming to realize, that unless something can be done to develop the productive power of the improverished farms and to maintain the fertility of the soil generally, America will soon be importing foodstuffs, and find itself with an increased cost of living and a decreased power of purchase from other nations. No greater service could be rendered by the bankers than helping to restore the popularity of farm life and the efficiency of our farmers. It is said that a representative of the American Banking Association is in Europe to ascertain what the bankers of France and Germany are doing for agriculture. In both these countries a system of co-operative banking has been worked out. They are said by Mr. R. A. Hobson to be designed to aid "the small agriculturist, who, while he needs credit and

can put it to good use, suffers from the great disadvantage that he has no adequate security of the type usually required to offer. The place of material security can only be taken by personal security, by a system, in fact, by which the borrower will borrow on the security of his own character, together with that of a number of his friends who may be willing to back their good opinion of him by guarantying the payment of his loan. For the success of this plan it is manifestly essential for the members of the society in general, and the guarantors of a loan in particular, to keep a sharp watch on the borrowing member, to see that the loan is duly applied to the purpose for which it was granted, and that its repayment is not jeopardized by the folly or incompetence of the borrower. The situation is summed up with characteristic Gallic felicity by M. Décharme, of the French Ministère d'Agriculture, when he describes credit banks of his country as being "in communities where everybody knows everybody else, and they always ask what the man wants to borrow for, and if he says he wants 400 francs to buy a cow, they watch him, and if, four or five days afterwards, he has no cow, they know it." (Interviews on the Banking and Currency Systems of England, Scotland, etc.; U. S. Monetary Commission.)

"The system is, in fact, an extension of the cash credit system of Scotland, to which, in the words of Macleod, 'the marvelous progress and prosperity of that country is mainly due.' Its fundamental characteristic is that the supervision of loans is conducted without expense, and conducted efficiently because it is to the interest not only of guarantors, but of all the members of a society, to exercise the strictest vigilance.

"The second important asset of the co-operative bank—that which it possesses in common with co-operative supply and sale societies—is the power of collective bargaining. As the co-operative supply society can buy at wholesale rates and sell to its members at less than retail prices, owing to the elimination of middlemen's profits, so the co-operative credit society is able to command loans and deposits at moderate rates on the joint security of its members, relending to the latter at lower interest than they can individually obtain.

"The combined effect of these two factors, inexpensiveness of management and collective bargaining, is that the co-operative bank can grant credit on cheaper terms than the joint-stock bank, while making the business pay where the latter cannot."

The co-operative idea, as developed in Germany, has been adopted in Belgium, where by 1910, 643 of these banks had been established.

Currency Reform.

No greater duty will devolve upon the next Congress than an adjustment of the monetary and banking question—a subject than which none other has been more fruitful of controversy. In this connection the currency planks of the three leading parties are of interest. The monetary planks in the Republican and Democratic platforms call for an investigation of agricultural credit societies in foreign countries. These same planks in the Democratic and Progressive platforms oppose "the so-called Aldrich bill." The Democrats oppose the establishment of a central bank, favor legislation permitting national banks to lend a reasonable proportion of their funds on real estate, condemn the "present methods of depositing government funds in a few favored banks, largely situated in and controlled by Wall street, in return for political favors," and pledge their party "to provide, by law for their deposit by competitive bidding in the banking institutions of the country, national and state, without discrimination as to locality, upon approved securities and subject to call by the government."

The following general statements are included in the party platforms:

Republican plank.—Our banking arrangements to-day need further revision to meet the requirements of current conditions. We need measures which will prevent the recurrence of money panics and financial disturbances, and which will promote the prosperity of business and the welfare of labor by producing constant employment. We need better currency facilities for the movement of

crops in the West and South. We need banking arrangements under American, auspices for the encouragement and better conduct of our foreign trade. In attaining these ends the independence of individual banks, whether organized under national or state charters, must be carefully protected, and our banking and currency system must be safeguarded from any possible domination by sectional, financial, or political interests.

Democratic plank.—We believe the people of the country will be largely freed from panic and consequent unemployment and business depression by such a systematic revision of our banking laws as will render temporary relief in localities where such relief is needed, with protection from control or domination by what is known as the money trust. Banks exist for the accommodation of the public, and not for the control of business. All legislation on the subject of banking and currency should have for its purpose the securing of these accommodations on terms of absolute security to the public, and of complete protection from the misuse of the power that wealth gives to those who possess it.

Progressive plank.—We believe there exists imperative need for prompt legislation for the improvement of our national currency system. We believe the present system of issuing notes through private agencies is harmful and unscientific. The issue of currency is fundamentally a government function, and the system should have as basic principles soundness and elasticity. The control should be lodged with the government, and should be protected from domination or manipulation by Wall street or any special interests.

Postal Savings Banks.

Prior to the enactment of the law providing for the establishing of postal savings banks by the government, it was predicted by many bankers that such banks would prove formidable competitors and have a serious effect on the business of regular savings banks. But it has been demonstrated that such fears were not well founded. While in the aggregate a great amount of money has been deposited in the postal savings banks, it appears to have been largely tin can and stocking money—money that would probably not have been deposited in other banks under any circumstances.

Postmaster General Hitchcock's report on the condition of postal savings banks at the end of the first quarter of the year shows 7,163 offices in operation with deposits that total $16,200,000. Bearing in mind that the first few banks were not established until January, 1911, and that the number has been increased slowly, this is not a bad showing. A more recent statement is that made by Mr. Theodore L. Weed, director of postal banks, who told the Bankers' Convention at Detroit that the $25,000,000 that have already flowed into our half-developed postal savings system have not taken a single cent out of the ordinary savings banks and banks of deposit, but have been drawn wholly from secret hoardings or rescued from the flux of unnecessary expense. In short, the available capital of the country has been increased by that sum.

Deposits in postal banks may approach $50,000,000 within a year. Probably half of this would have gone abroad had there been no government plan for accepting savings.

It may be a long time before our total of deposits approximate some totals in foreign countries,—$821,000,000 in Great Britain, $324,000,000 in Italy, and $316,000,000 in France, for example. Canada has $43,000,000 in such banks and Sweden $138,000,000. But a slow growth will be in the interest of good management of the system, and the postal banks will be more popular as they are better understood.

The question is being raised: What is the government to do with these millions as they rapidly increase with the expansion of the postoffice savings bank business? It has been suggested that they should be subloaned by the government to the banks. It is also urged that they be employed for the creation and preparation of a wide-reaching interstate system of postroads and the development of waterways. It is said that it would be easy to devise a plan for the creation of avenues of interstate transportation by land and water that would yield dividends far greater than the interest which the government engages to pay on the postal deposits.

Correspondence

Editor CASE AND COMMENT:—

I have just finished reading your very interesting September number of CASE AND COMMENT, containing articles relative to labor legislation. My curiosity is somewhat aroused by a portion of the article by Mr. J. Walter Lord, of the Baltimore bar, on the "Workman's Compensation Law."

Mr. Lord's article opens with the following statement, which I believe will be universally accepted as sound:

"It is a somewhat interesting coincidence that contemporaneously with the decision of the English court of exchequer in Priestly v. Fowler, 19 Eng. Rul. Cas. 102, the case which is the genesis of the doctrines of assumption of risk and fellow servant, the Kingdom of Prussia, by its liability law of 1838, took the initial step in the recognition of the principle that the employer should be held to a liability, irrespective of fault, in the case of occupational injuries."

I believe it is perfectly sound and safe to assert that the courts established, announced, and enforced the doctrines referred to, without legislative aid, so far as I have ever been able to ascertain; and that the two doctrines above mentioned probably rest for authority on the Priestly-Fowler Case, decided in 1837.

In the body of his article, page 254, Mr. Lord uses the following language in speaking of the attitude of the working man, and of the public generally, toward the courts on account of the very unsatisfactory condition of the law in this country regarding personal injury or industrial injury cases:

"Not an unimportant evil, also, is the disrespect engendered in the minds of the laboring man for the courts. The state of the law is responsible for the many miscarriages of justice in the case of occupational injuries, but the workman naturally blames the court. Indeed the tendency thus to misplace responsibility is not limited to the laboring man, and it is undoubtedly a potent factor in the movement for recall of judges, and like heresies, which poison the roots of our institutions."

My curiosity herein consists in this: If Mr. Lord's premise be correct, and the doctrines of assumption of risk and fellow servant are the creatures of the courts, and do not derive authority or vitality from legislative enactment, and further have their basis in the comparatively modern case of Priestly v. Fowler, decided as late as 1837; how is the impression that the courts are responsible for creating these rules of law a "misplacing of responsibility?"

I believe Mr. Lord is correct in his statement that the courts did create these rules; I believe I am correct in saying that these rules have no basis in any legislative authority; I believe I am correct that through the sole act and power of the courts, which have not the lawful power to make law, these rules, court made, have by court decree, adherence, and enforcement become law—court made. If this be true I am somewhat at a loss to understand why placing the responsibility for the rules and the "state of the law" which they have produced on the courts, the creators and perpetuators of the rules, is a "misplacing of responsibility."

Being an Arizonian, I am not a believer in the theory that the recall of judges is a "heresy," nor do I believe for a moment that it "poisons the roots of our institutions." It seems perfectly plain and clear to me that a judge who is corrupt, a judge who is uniformly partial to certain interests which have business before him, or a judge who will encroach on the legislative department and exercise the legislative function, making and creating laws, which he styles "doctrines" but none the less gives the force of laws, ought to be recalled and removed from office, for in either case he has violated his oath of office. A judge who "makes law" is as guilty of a breach of his oath and a violation of an express provision of the Constitution as would be a legislative or executive officer who undertook, without shadow of authority, to adjudicate and determine judicial controversies and questions,—in fact, he is more dangerous to the public and to our institutions, because he is in a position under rules created by his predecessors to make his unlawful act the law, whereas in the case of encroachments of other departments upon the judicial there is always recourse to the courts, but under the present system there is no recourse from the courts to any other authority. For these reasons it is, in my humble and unimportant opinion, a just and proper thing that the people should reserve recourse to themselves, through the recall of judges and the recall of judicial decisions in cases arising under the police power and involving, under the decisions of the supreme court, a determination of the preponderating moral sentiment of the community, and should exercise this reserved power without stint, especially in the cases of judges who legislate. The exercise of legislative power by the judiciary is to my mind a real danger to the "roots of our institutions," and is certainly and clearly contrary to the theory of our government and the express provisions of every Constitution, state and Federal.

NEIL M. ALLRED.

Globe, Arizona.

Among the New Decisions

Jurisprudence is only the means, justice is the end.—Charles O'Conor.

Bankruptcy — discharge of corporation — stockholders' liability. The discharge of a corporation under the Federal bankruptcy act is held in Way v. Barney, 116 Minn. 285, 133 N. W. 801, annotated in 38 L.R.A.(N.S.) 648, not to discharge or extinguish the constitutional liability of its stockholders for the payment of its debts.

Bankruptcy — revival of debt — new promise. A debt discharged in bankruptcy is held in Coe v. Rosene, 66 Wash. 73, 118 Pac. 881, not revived by a written statement, "expect to pay" more of the old losses, "and the next shall be" the one in controversy; "I advised" a representative of the creditor "that I held my promise . . . good," followed by a statement that the writer does not know when he can do what he wants to.

The cases relating to an expression of hope or expectation as a new promise which will toll the statute of limitations or revive a debt after discharge in bankruptcy, are gathered in the note which accompanies this decision in 38 L.R.A. (N.S.) 577.

Carrier — duty to assist passenger. While generally it is no part of the duty of the employees of a railway company in charge of a passenger train to physically assist passengers to alight therefrom, it is held in Georgia R. & Bkg. Co. v. Rives, 137 Ga. 376, 73 S. E. 645, annotated in 38 L.R.A.(N.S.) 564, that the duty of rendering assistance may arise from special circumstances, such as blindness of an unattended passenger, which is known to the conductor.

Conflict of laws — power to confess judgment. The validity of a power of attorney to confess judgment inserted in a note executed in one state by its citizen, but payable in another state, is held in Acme Food Co. v. Kirsch, 166 Mich. 433, 131 N. W. 1123, to be determined by the law of the former, and if by its law such power is invalid when combined with a note, a judgment entered upon it in the state where the note is payable is void, and will not be enforced by the courts of the state where the note was made.

The subject of the law governing a warrant of attorney to confess judgment is discussed in the note appended to the report of the foregoing decision in 38 L.R.A.(N.S.) 814.

Contract — to suspend liquor law — enforceability. A question not previously considered by the courts was presented in the Tennessee case of Arlington Hotel Co. v. Ewing, 138 S. W. 954, 38 L.R.A. (N.S.) 842, holding that a contract by an attorney to secure the suspension for a specified time, of a statute prohibiting the sale of intoxicating liquor, is void, and he cannot recover the agreed compensation for so doing, although the only acts performed by him were the perfect-

ly legal ones of agreeing to defend any prosecution brought under the statute.

Corporation — stockholder's action — setting aside transactions antecedent to acquisition of interest. A stockholder in the absence of special circumstances, is held in Pollitz v. Gould, 202 N. Y. 11, 94 N. E. 1088, entitled to maintain an action on behalf of the corporation for the benefit of himself and all other stockholders, to set aside an improper transaction consummated at the expense of the corporation, such as the exchange of capital stock for that of another corporation, although it was completed before he acquired his stock.

The cases treating of the right of a stockholder to attack a fraudulent transaction occurring before he acquires his stock are presented in the note accompanying the foregoing decision in 38 L.R.A.(N.S.) 988.

Deed — delivery — placing in hands of register. That no sufficient delivery of a deed is effected by placing it in the hands of the scrivener or county official for safe-keeping, with directions to place it on record upon death of the grantor, is held in Renehan v. McAvoy, 116 Md. 356, 81 Atl. 586, which is accompanied in 38 L.R.A.(N.S.) 941, by the recent decisions on delivery of deed to a third person or record by grantor, as a delivery to the grantee, the earlier authorities having been gathered in notes in 54 L.R.A. 865, and 9 L.R.A.(N.S.) 224.

Evidence — result of autopsy — privilege. While there is very little direct authority, the correct rule would seem to be that, where by statute information acquired by an attending physician is privileged, information acquired by a physician by an autopsy performed upon the body of a deceased patient is privileged; but that information acquired by an autopsy upon the body of a person who was not, prior to his decease, a patient of the physician performing the autopsy, is not privileged.

The first part of this rule is sustained by the Michigan case of Thomas v. Byron Twp. 134 N. W. 1021, annotated in 38 L.R.A.(N.S.) 1186, holding that where, by statute, information gained by an attending physician is privileged, one called to attend a person injured by another's negligence cannot, in an action to hold the negligent person answerable in damages for the death of the patient, give the result of an autopsy which he, without authority, performed upon the patient, and his conclusions therefrom.

The latter part of the rule is sustained by Harrison v. Sutter Street R. Co. 116 Cal. 156, 47 Pac. 1019, cited and distinguished in Thomas v. Byron Twp.

Highway — unsafe walk — negligent use. One who attempts to use a sidewalk knowing that it is dangerous and can be used without accident only by the use of extreme care, while a perfectly safe roadbed lies beside it, is held in the Iowa case of Gibson v. Denison, 133 N. W. 712, 38 L.R.A.(N.S.) 644, to be so negligent that he cannot hold the municipality liable in case he is injured by a defect in the walk.

The subject of negligence in falling on an uneven sidewalk was considered in a note in 17 L.R.A.(N.S.) 195, while the question of knowledge of an obstruction or defect in the street as affecting the question of contributory negligence was discussed in a note in 21 L.R.A. (N.S.) 638.

Husband and wife — duty to support husband — statutes governing alimony. A separate and equitable action at the suit of the husband against the wife is held in the North Dakota case of Hagert v. Hagert, 133 N. W. 1035, 38 L.R.A. (N.S.) 966, to be maintainable to compel the wife to support and maintain the husband when amply able to do so, and when she has not been deserted or abandoned by the husband, when he, because of age and infirmity, is unable to gain his own livelihood. Such an action may be maintained without joining therewith an action for divorce, and the statutes governing alimony in divorce cases do not bar an equitable action for maintenance and support, brought by one spouse against the other.

Husband and wife — separate maintenance — power of equity. That a court

of equity, independently of proceedings for divorce, on the ground of inadequate remedy at law, may decree maintenance to a wife who has been deserted by her husband, is held in the West Virginia case of Lang v. Lang, 73 S. E. 716, annotated in 38 L.R.A.(N.S.) 950.

Insurance — broker — agent of insured — commission — effect. That an insurance agent to whom a merchant makes a request for insurance, and who, acting as broker, procures all, or part, of such insurance through agents of other companies not represented by him, may be the agent of the insured, is held in Morris McGraw Woodenware Co. v. German F. Ins. Co. 126 La. 32, 52 So. 183, 20 Ann. Cas. 1229, annotated in 38 L.R.A.(N.S.) 614. The mere fact that he receives "a commission from a company which he does not represent, for placing the insurance with it, does not make him the agent of that company."

Insurance — benefit society — payment by suspended member in ill health. Payment by a member of a mutual benefit society of arrears of dues, for nonpayment of which he has been suspended, to the clerk of the local camp at a time when he is not in good health, although it is received and forwarded by the clerk, is held in Bixler v. Modern Woodmen, 112 Va. 678, 72 S. E. 704, not to effect a reinstatement, where, by the laws of the order, the clerk had no authority to receive such payment unless the suspended member was in good health, as such member was bound to take notice of the rule, and therefore knew that his payment was ineffectual.

This decision is accompanied in 38 L.R.A.(N.S.) 571, by a note in which the cases pertaining to waiver by an officer of a subordinate lodge, of forfeiture for nonpayment of assessments, are discussed.

Insurance — forbidding limitation of action — existing contracts. The first case apparently which has passed on the applicability to an existing policy of insurance, of a statute affecting the validity of the contractual stipulations limiting the time for action, where the statute was passed after the contract was made, but before the loss occurred, is Smith v. Northern Neck Mut. F. Asso. 112 Va. 192, 70 S. E. 482, 38 L.R.A. (N.S.) 1016, holding that a statute providing that no provisions in any policy of insurance, limiting the time within which a suit or action on the policy may be brought to less than one year after loss, shall be valid, applies to existing policies.

Landlord and tenant — transfer of title — rights of tenant. The general rule that a tenant cannot dispute his landlord's title is held in Raines v. Hindman, 136 Ga. 450, 71 S. E. 738, annotated in 38 L.R.A.(N.S.) 863, not to prevent the tenant from showing that the landlord parted with his title to the rented premises during the term of the tenancy. Where it is shown that the landlord parted with his title during the term of the tenancy, he cannot evict the tenant after the expiration of such term, on the ground that the latter is a tenant holding over beyond his term or on the ground of the nonpayment of rent. This is true, though the tenant may not have attorned to the grantee of the landlord.

Libel — court proceedings — prematurity. The publication of pleadings or papers which have been placed on the files of a court, when the court has not yet acted thereon, is held in Byers v. Meridian Printing Co. 84 Ohio St. 408, 95 N. E. 917, annotated in 38 L.R.A. (N.S.) 913, not privileged, even though the publication is made in good faith and without malice.

Limitation of actions — suit by foreign corporation — effect. A question which apparently has not been previously considered by the courts was presented in Western Electrical Co. v. Pickett, 51 Colo. 415, 118 Pac. 988, 38 L.R.A.(N.S.) 702, holding that the statute of limitations will not be tolled by the institution of a suit by a foreign corporation which has not complied with the provisions of a local statute which provides that it shall not prosecute a suit in the state until it has so complied.

Marriage — mental capacity — sufficiency. That one who has been addict-

ed to the habit of drinking intoxicating liquors to excess, who is unable in conversation to concentrate his mind upon the subject under discussion, shows little intelligent interest in his own business, is vacillating and uncertain, and shows signs of failing memory, may be found not to have had sufficient mental capacity to enter into a marriage contract, is held in the California case of Dunphy v. Dunphy, 119 Pac. 512, where, without preparation or prior engagement, he goes with a lady in an automobile to a neighboring town, stopping at a road house on the way, where he becomes intoxicated, from which condition he had not recovered when the ceremony was performed; and the marriage may be annulled if he has not recovered from his intoxication while in the lady's presence sufficiently to ratify the contract before he finally leaves her.

The recent cases on mental capacity essential to a valid marriage are gathered in the note appended to this decision in 38 L.R.A.(N.S.) 818, the earlier authorities having been discussed in a note in 40 L.R.A. 737.

Master — securing discharge of employee — mistake — liability. Although the question of liability of a third person for intentionally bringing about the discharge of a servant is frequently before the courts, not many cases seem to have arisen as to such liability when there was no such intention.

According to Lopes v. Connolly, 210 Mass. 487, 97 N. E. 80, annotated in 38 L.R.A.(N.S.) 986, one who, having notified an employer of the assignment of an employee's wages under a mistake in identity, persists in claiming the assignment after being notified of the mistake, and thus causes the discharge of the employee, is liable for the wages lost by the employee because of such discharge.

Municipal corporation — sodding space between curb and lot line. Under charter authority to control sidewalks, and pave, improve, protect, and keep the same in order, at the expense of the owner of the adjoining property, a municipality is held in Holmes v. Heeter, 146 Ky. 52, 142 S. W. 210, annotated in 38 L.R.A.(N.S.) 935, to have power to require the sodding of the space between the curb and lot line, not occupied by stone or cement, at the expense of the lot owner.

Negligence — sale of weapon — injury — liability. A wholesaler who, contrary to the prohibition of the statute, sells retailers toy pistols for resale, is held in the Wisconsin case of Pizzo v. Wiemann, 134 N. W. 899, 38 L.R.A.(N.S.) 678, not liable for injury by one of the toys to a person who purchases it from the retailer.

Note — release of maker — effect. Where a person guarantees the payment of a promissory note, and there is default in the payment of such note by the principal debtor, and by reason thereof the contract of guaranty becomes absolute, it is held in Frost v. Harbert, 20 Idaho, 336, 118 Pac. 1095, annotated in 38 L.R.A.(N.S.) 875, that the guarantor will not be released from his liability as such by reason of an agreement made by the creditor, the principal debtor, and the guarantor, that certain personal property covered by a mortgage securing the note be sold and applied on the note, and that the original debtor be released from such debt.

Note — illegal — reimbursement by payee. A search discloses no case other than American Nat. Bank v. Madison, 144 Ky. 152, 137 S. W. 1076, 38 L.R.A. (N.S.) 597, passing on the right of one who has been obliged to pay to a bona fide holder a note invalid as between the immediate parties because contrary to public policy, to recover against a party *in pari delicto*.

This decision holds that the payee of a note given to compound a felony cannot, although he could not have enforced it himself, be compelled to reimburse the maker in case he is compelled to pay it to a bona fide purchaser without notice before maturity, since the parties being *in pari delicto*, the law will aid neither party.

Nuisance — obstruction of stream — special injury. One seeking to establish

a steamboat line to carry passengers and freight upon a navigable river is held in Swain v. Chicago, B. & Q. R. Co. 252 Ill. 622, 97 N. E. 247, to sustain no injury distinct from that of the public, which will enable him to maintain an action for damages, because he finds a bridge across the river so located that his steamers cannot pass it; but he will have to tranship all freight and passengers destined to pass the bridge, in order to transport them to their destination.

The recent cases on the subject of private right of action for the obstruction of a navigable stream are gathered in the note accompanying this decision in 38 L.R.A.(N.S.) 763, the earlier decisions having been presented in a note in 3 L.R.A.(N.S.) 1126.

Principal and agent — power of sales agent to collect accounts. A sales agent with express authority to collect all or any part of the purchase price at time of sale is held in the Arkansas case of American Sales Book Co. v. Cowdrey, 140 S. W. 134, 38 L.R.A.(N.S.) 700, to have implied authority to make the collection when he returns, according to agreement, to show the purchaser how to use the machine sold; and it is not affected by a direction in a statement of account rendered by the principal to the purchaser, to pay no money to agents.

This question seems to have been considered by the courts in but one other case.

Referee — liability for broker's commissions. A referee to sell real estate for partition, who contracts individually with a broker to secure a purchaser, is held in the Iowa case of Jones v. Ford, 134 N. W. 569, 38 L.R.A.(N.S.) 777, individually liable for the commission when the purchaser is produced ready, willing, and able to comply with the terms of the sale.

This appears to be a case of first impression on the question of the personal liability of an officer for broker's services rendered in selling property decreed to be sold.

Sale — order — notification of receipt — effect. It cannot be said that the cases are in entire harmony in their construction of written orders for goods and acknowledgments thereof. Courtney Shoe Co. v. Curd, 142 Ky. 219, 134 S. W. 146, annotated in 38 L.R.A.(N.S.) 903, however, seems to agree with the weight of authority in holding that a mere acknowledgment of an order for goods, together with the statement that the same would receive prompt and careful attention, does not constitute an acceptance of the order, so as to make a valid and complete contract of sale, but amounts merely to a promise to give the order itself attention, with the idea of soon either accepting or rejecting it.

Sale — recovery of advance payments. In the absence of any statutory provision on the subject, it is held in the North Dakota case of Pfeifer v. Norman, 133 N. W. 97, annotated in 38 L.R.A.(N.S.) 891, that when a conditional sale contract permits the termination thereof on default of the vendee, and the vendor retakes possession of the property involved, as he had a right to do, the vendee cannot recover, in an action at law, partial payments made on such contract; and to hold otherwise would be to offer a bounty for the violation of contracts.

Slander — mitigation — reputation. Though there is some conflict of opinion, it is generally settled law in this country that proof of plaintiff's general bad character or reputation is competent in libel or slander, in mitigation of damages; and the theory upon which such evidence is held competent is that a man with a bad character or reputation has very little reputation to lose from a charge, and is therefore entitled to but litle compensation.

The recent case of Wood v. Custer, 86 Kan. 387, 121 Pac. 355, annotated in 38 L.R.A.(N.S.) 1176, holds that in an action for slander, it is competent for the defendant to show in mitigation of damages that, at the time of the defamation complained of, the plaintiff's general reputation was bad with respect to the matters involved in the charge made against him.

Specific performance — devise — personal services. Where one has rendered

services to another under an oral agreement that he is to be compensated by the devise of real estate, it is held in Schoonover v. Schoonover, 86 Kan. 487, 121 Pac. 485, that the contract may be enforced, irrespective of the question of possession, where the services are of such a character that their value in money cannot be satisfactorily determined.

The question of specific performance of an oral contract to devise or convey land in consideration of performing services, where no possession is taken or improvements made, is considered in the note accompanying the foregoing decision in 38 L.R.A.(N.S.) 752, which is supplementary to an earlier note in 15 L.R.A.(N.S.) 466.

Surveyor — liability for mistake in locating boundary. One employed to locate the boundaries of a lot upon which, to his knowledge, its owner desires to place a certain character of building, is held liable in Taft v. Rutherford, 66 Wash. 256, 119 Pac. 740, annotated in 38 L.R.A.(N.S.) 1043, for the cost of moving the building, in case, through his error in making the survey, it is not located on the owner's property.

Tax sale — preventing competition — partnership. An agreement between two or more persons, not general partners, who are competitive bidders at delinquent tax sales, that they will become partners in all lands that may thereafter be purchased by either of them, is held in the West Virginia case of Coal & Coke R. Co. v. Marple, 73 S. E. 261, to contravene public policy and to render void a tax deed acquired pursuant to such agreement.

The authorities, as disclosed by the note which accompanies the foregoing decision in 38 L.R.A.(N.S.) 719, all agree that a contract entered into by several persons, under which one of them is to purchase property at public sale for the benefit of all the parties, is void as against public policy, and is ground for setting the sale aside where it appears that it was made to prevent competition at the sale or for any other fraudulent purpose. But the great majority of the cases hold that the mere combination does not of itself amount to such fraud as to render the contract unenforceable as between the parties, or to constitute grounds to set aside the sale. Numerous early decisions holding the mere combination of itself fraudulent and as ground for setting aside the sale have been overruled.

Trust — declaration by trustee — validity. That a trustee may execute a declaration of trust which will take the transaction out of the statute of frauds is held in Holmes v. Holmes, 65 Wash. 572, 118 Pac. 733.

This exact question has not been passed upon directly by many courts. It seems to have been assumed in a large number of cases, that the statute may be satisfied by a declaration signed by the trustee alone. As appears by the note appended to the report of the foregoing decision in 38 L.R.A.(N.S.) 645, the cases which have passed specifically upon the question are not in accord.

Unfair trade — selling pictures of property. The owner of a cavern which constitutes a natural curiosity, who sells colored views of it as souvenirs and for advertising purposes, is held in Luray-Caverns Co. v. Kauffman, 112 Va. 725, 72 S. E. 709, 38 L.R.A.(N.S.) 1207, a case apparently of first impression, not entitled to enjoin the sale by an assignee of the photographer of colored photographs produced from plates made under permission of a former owner of the cavern, although the coloring on them is incorrect, upon the ground that it is an unlawful interference with the business of the owner.

Vendor and purchaser — second story of building — right to restore after destruction. The precise question decided in the Iowa case of Weaver v. Osborne, 134 N. W. 103, 38 L.R.A.(N.S.) 706, as to the relative rights of the parties bound by a covenant in a conveyance of a part of a building, is, so far as an extended search discloses, one of first impression. That decision holds that under a grant of the second story of a building, the covenants requiring the grantor to keep the first

story in order and the grantee to keep the second story in repair, in case of fire "to be optional with either party in case of building," if the grantor, after a fire, elects to restore the first story, the grantee has the option to restore the second one.

Weapon — concealment — deputy sheriff. A deputy sheriff who, having a warrant for the arrest of persons in his county, upon hearing they are in an adjoining county, goes there in search of them, is held in the Mississippi case of Shirley v. State, 57 So. 221, to have no authority to carry a weapon concealed about his person.

This decision is accompanied in 38 L.R.A.(N.S.) 998, by a note on the right of a peace officer to carry weapons outside his district.

Will — advancement — niece — satisfaction of legacy. That a payment of money by a testator to his niece, towards whom he does not stand *in loco parentis*, will not be presumed to be intended as a satisfaction of a provision for her in his will, is held in the Iowa case of Johnson v. McDowell, 134 N. W. 419, the report of which, in 38 L.R.A.(N.S.) 588, is accompanied by a note in which the decisions pertaining to a gift by a testator as an ademption of a general legacy to a donee are discussed.

Will — severance of estate — visible easement — implied grant. A devise of testator's homestead including a stable and garden lot "as it shall be at my decease," the only reasonable means of access to which is a way visible on the ground, passing through portions of his property devised to others, is held in Gorton-Pew Fisheries Co. v. Tolman, 210 Mass. 402, 97 N. E. 54, to carry an easement in the way.

The subject of devise as carrying a visible easement is discussed in the note accompanying this decision in 38 L.R.A. (N.S.) 882.

Recent English and Canadian Decisions

Adverse possession — actual occupancy — occasional acts. The cutting of wood and grass on unoccupied land, the using of it for pasture, and the occasional raising of a patch of potatoes or oats thereon, is not such possession as will suffice to give statutory title as against the holder of the legal title. McInnes v. Stewart, 45 N. S. 435.

Bailment — right of bailee to recover damages for injury to subject of bailment. The hirer of a livery rig is held in Compton v. Allward, 22 Manitoba L. Rep. 92 to be entitled to recover from one who had negligently run into it the full amount of damages caused by the collision, although he is not liable over to the owner for the damage. He must, however, account to the owner for what he receives above his own interest; and the wrongdoer, having once paid full damages to the bailee, has an answer to any action by the bailor.

Contracts — effect of extension upon stipulation making time of essence. A provision in a contract "that time is to be considered the essence of this agreement" is not wholly done away with by an extension of time for performance, but the only effect of such extension is to substitute the extended time for that originally fixed. Hicks v. Laidlaw, 22 Manitoba L. Rep. 96.

Contracts — specific performance — effect of reference to more formal contract to be subsequently prepared. Where a receipt given by the vendor's agents for a cash deposit on the sale of land subject to their principal's approval contains all the terms of the contract and is sufficient to satisfy the statute of frauds, and the sale is subsequently approved by him, an action may be maintained thereon for specific performance, notwithstanding a provision therein referring to a further payment to be made "on execution of the

necessary agreement of sale." Conley v. Paterson, 22 Manitoba L. Rep. 127.

Gift — husband and wife — delivery of possession. A gift of an automobile by a husband to his wife is not established by proof that he had purchased it because she had been ill and was not able to walk, with the intention that she and the family should use it, and that it should be hers, in the absence of evidence of any actual delivery or of words of present gift accompanied by change of possession. Huggard v. Bennetto, 22 Manitoba L. Rep. 44.

Marine insurance — perils of the sea — damage by leakage. Damage to property stored in a wooden hulk moored in a river, by water percolating through a rotten timber, is not covered by a policy of marine insurance against damage caused by "perils of the sea." E. D. Sassoon & Co. v. Western Assur. Co. [1912] A. C. 561.

Negligence — liability of stable owner for injury to horses allowed to be kept therein. That the relationship between an owner of a stable and one having an arrangement with him for the keeping of his horses therein, under which he was to pay a certain sum per head per day for feed and accommodation, the horses being cared for by their owner's employee, and no particular stalls being set aside for their use, the stable being at the same time in use by its owner, is not that of landlord and tenant, but either that of bailor and bailee, or licensor and licensee; and that the stable owner is therefore liable for injury to a horse, arising from a negligent failure to have flooring of proper strength is held in Gunn v. Canadian P. R. Co. 22 Manitoba L. Rep. 32.

Negligence — fall of wall of damaged building — liability of owner. The duty of the owner of a building damaged by fire to take such precautions as will prevent its walls from falling on adjoining premises is not satisfied by his acting in good faith upon the advice and assurance of his architect, or a building inspector, as to the precautions proper to be taken; such duty not being of a delegable character. McNerney v. Forrester, 22 Manitoba L. Rep. 220.

Railroads — duty to anticipate negligence of person approaching crossing. There is no duty on the part of those in charge of a railroad train, on seeing a person approaching a highway crossing, to take measures to guard against the possibility of accident in case such person fails to stop, look, or listen, unless it is perceived that such person will fail to do so in sufficient time. Morrison v. Dominion Iron & Steel Co. 45 N. S. 466.

Will — construction — effect of direction to pay certain legacies "after payment" of others. That a will by which testator gave his residuary estate to trustees to sell and convert into money, and out of the proceeds, "in the first place," to pay debts and funeral and testamentary expenses, and "in the next place" to pay legacies to certain nephews, "and after payment thereof" to pay legacies to certain nieces; and, further, gave certain other legacies, including some charitable legacies which he directed "to be paid exclusively out of such part of my personal estate as may lawfully be appropriated to such purposes and in preference to any other payments thereout," did not give the legacies to the nephews priority over those given to the nieces, where there was nothing in the will, other than the expressions above quoted, to indicate that the testator was doubtful whether he had left sufficient assets to pay all the legacies,—is held in Re Harris [1912] 2 Ch. 241.

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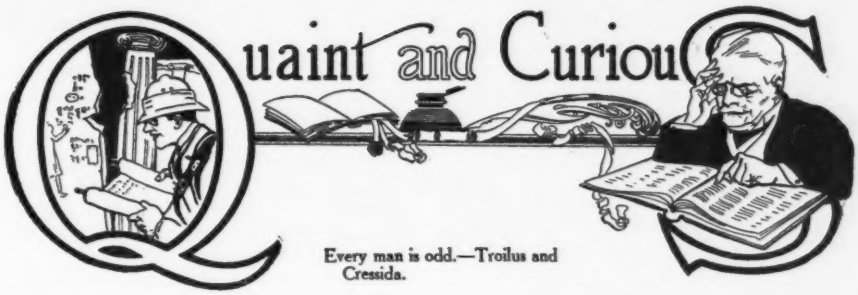


Every man is odd.—Troilus and Cressida.

His Bank. While an Aberdeen pawnbroker was endeavoring to dispose of an old silk hat, states the London Standard, she discovered in the lining bank deposit receipts of $3,000. Fortunately the pawnbroker knew that the hat had belonged to a local gentleman who had died three years ago, and on communicating with his representatives she was informed that the missing securities had been the subject of prolonged search and litigation. Their discovery cleared the deceased's lawyers of a suspicion of carelessness. The deceased had been in the habit of using his hat as a bank.

Ancient Bank Notes. Paul Revere was the first American bank-note artist, and from the time of the chartering of the Bank of North America, under the direction of Robert Morris, in 1781, up to the present, American engravers have excelled not only in the artistic quality of their designs, but in their provisions against counterfeiting. Marco Polo found bank notes in China ages ago, printed on paper made from the bark of the mulberry tree. One of the notes, upon which the great Venetian traveler himself may have gazed, is on exhibition at this day in the office of an American company. It is one of a series issued by the Ming dynasty about 1399 A. D.—"current anywhere under heaven"—and seems to have been printed from wooden blocks on a sheet of paper 9x13 inches—a bigger surface than any man could cover with both hands outstretched. It is good for "one string of cash." The provision against forgery is simple to the point of severity—"Counterfeiters hereof will be executed. Persons giving information of counterfeiters will be rewarded with taels 250, and, in addition, will receive the property belonging to the criminal."—Boston Transcript.

Finger Prints. About one year ago it was announced that in the case of Indians who could not write their names an impression of their left thumb would be required by the United States authorities, instead of the old-time cross and "his mark." It was perhaps the most important innovation of the kind since the adoption of the Bertillon system in American police offices. The effect has been watched very closely by bankers throughout the country.

The North Side Bank, in New York city, has adopted the finger-print system, and is said to be the third to do so, the other two being the Williamsburg Savings Bank and the Maiden Lane Bank. Instead of the thumb, the North Side Bank takes the imprint of three fingers of the right hand,—the tips of the index, middle, and third fingers.

One of the greatest difficulties with which banks have to contend pertains to identifications. A signature can be duplicated so closely as to be mistaken even by experts, especially during the rush of business and without a microscopical examination. But it is pretty generally admitted to-day that a man's finger prints cannot be forged, and that they are as characteristic of their owner as is his personality.

Bankers believe that it is only a question of time before the system will be in general use.

Legal Tender. There are ten kinds of money, says a writer in Harper's Week-

ly, in circulation in our country. Although "all money looks alike," not all of it is legal tender; and it is probable that the average person is a bit hazy in his mind as to just what constitutes "legal tender." Here is a list of the different kinds of money with which American citizens have to do:

Gold coins, standard silver dollars, subsidiary silver, gold certificates, silver certificates, treasury notes, United States notes (greenbacks), national bank notes, nickel coins, and bronze coins.

Some of the most impressive paper currency included in this list is not legal tender at all. As for the minor coins, they are legal tender in such insignificant amounts as would surprise one if the fact was known. It may be well, in this connection, to observe that the term "legal tender" derives its significance from the fact that in payment of debt or obligation of any sort it can be paid to the creditor "in full of all demands."

Gold certificates, silver certificates, and national bank notes, of which such enormous quantities circulate everywhere in this country, are not legal tender. Silver dollars may be made in payment to any amount, but half and quarter dollars are legal tender to the extent of $10 only, and nickel and copper coins only to the amount of 25 cents.

Treasury notes of the act of 1890 are legal tender to their face value in payment of all debts, public and private, unless in the contract stipulation to the contrary is expressly made.

In a precise sense, the United States notes or greenbacks are legal tender, with the exception of duties on imports and interest on the public debt. Practically, however, since the resumption of specie payment in 1879 greenbacks have been received freely and without question by the government.

While the gold and silver certificates are not legal tender as between individuals, both issues are receivable for all government dues of whatever kind. In this respect they are legally more acceptable than is the greenback.

National bank notes, while not legal tender, and not receivable for duties on imports, may be paid by the government for salaries and in discharge of all debts of the government except interest dues and in redemption of the national currency.

By special enactment, no foreign coin of any kind or denomination is a legal tender in the United States.

Note for a Penny. Once a Bank of England note for 1 penny was issued by mistake. It got into circulation and was a source of great annoyance to many persons when making up accounts. Search was made by the bank, and at length it discovered the holder of the note, who returned it to them for a fancy price.

This is the smallest amount for which an English note has ever been issued, for of course notes under £5 are never drawn up unless by mistake.

On no account are notes issued twice from the bank, and they are always canceled even if exchanged for cash immediately on their issue. About 50,000 notes are presented for payment every day, and in one department a large staff of clerks is employed entirely to count and sort the notes that have been paid in on the previous day.

The canceled notes are burned five years after the year of presentation. More than 90,000,000 of old notes are stored away in the bank, and about every fortnight a large quantity of old notes is destroyed.—Answers.

Money That no One Claims. Twenty millions of unclaimed money in the coffers of British banks,—derelict gold which nobody owns, and which the banks are naturally pleased to take care of! Gold more than sufficient to pave every square foot of Cheapside with sovereigns.

The sum total may be exaggerated. But make a liberal deduction, and you still have many millions to which no rightful owners make a claim. There is no bank in the whole length of Great Britain (or elsewhere) which has not its lists of these bank balances that may be said to go a-begging. Some are for trivial sums, scarcely worth the trouble of pocketing; some are for amounts running into thousands.

Some years ago, when Mr. Goschen's conversion scheme was in the air, it was

found that the Bank of England alone had nearly 11,000 of these dormant accounts. Forty of them had more than $50,000 apiece to their credit; one balance was written in six figures,—907,-990. The total at the bottom of the long list was $39,248,875. This amount was very largely made up of unclaimed dividends on government stock.

Scottish banks have, it is said, $45,-000,000 of this overlooked gold. English banks at least double this sum. How does it come there? And what becomes of it?

It seems inconceivable that so much money, for all of which there must have been owners at some time or other, should be thus lost to sight. A score or more of simple causes account for the seeming impossibility. A man may, for private or business reasons, have accounts with more banks than one. He dies, his executors know nothing of any but his usual banks; the balances at the others remain unclaimed.

He may die abroad, or disappear leaving no clew to his banking affairs; he may even forget that such and such an account is not closed. In these and many similar ways—mostly the result of carelessness—money is left in the hands of bankers to swell the dormant funds.

For seven years the bankers keep the accounts open, prepared to pay over the balance to any who can prove a title to it. This term expired, they regard the forgotten gold as their own. Five million dollars of such ownerless money went to build London's splendid law courts. The city, it is said, has more than one magnificent bank building reared from the same handy material. The Bank of England, one learns, provides pensions for clerks' widows out of such a fund.

But, whatever becomes of it, these millions of "mystery gold" are always growing, fed by man's carelessness or forgetfulness, their secrets hidden away in thousands of musty bank ledgers.—London Tit-Bits.

Day of Judgment. In an Irish case, interest on a promissory note was claimed "from the issue of the writ until the Day of Judgment." It was argued that nothing was due until that event happened; but the court held that what was meant was the day or date of judgment, which was well within their control, and had, indeed, arrived.—Pall Mall Gazette.

Profound Learning. A few weeks ago it became necessary for a certain business man to send to a young attorney in a small country town a bit of business in connection with a lease. The young lawyer, evidently realizing that upon the knowledge shown in this venture depended the success of future business, returned the following letter:

Dear Sir:—

Enclosed please find lease, duly signed by (————) covering the NW 1-4 of section ——, township —, north of range —, west, according to certain terms which are enumerate therein, notwithstanding any agreement or small talk to the contrary, nevertheless, since. You will notice in the fourth line from the bottom of the page there is nothing from which one can construe any consideration for the cultivation and the watchful care of the buildings, stables and cribs, although it might seem that usual or necessary work is necessary and ought to be insisted upon in this contract, incurring the performance of all conditions therein and neglecting the authorization of entrance upon the premises. It would seem best, however, since it is not, that the hired help be suitable to the proper producing and releasing of any further matter of courtesy protecting one's own interest and since it is such that notwithstanding the further condition and incomprehensible matters, it might seem otherwise, nevertheless.

In conclusion, dependable as it may seem, there is nothing which is miscellaneous in this matter and in accordance therewith it is incongruous and subservient to any further interests which might not appear to be, although the premises repay any advance which might be made by reason of the unconditional emergency as relates to suspension of any deficiency which might exist.

Hoping this explains the situation thoroughly, I am

Yours very truly,

———————

The Signature Broker. The passages of the initiative and referendum amendment at the last election have given rise to a new business in Denver and Colorado.

This is the business of the signature broker.

According to the Constitution as it stands now any law to be initiated, that is, offered to the people direct, without the intervention of the action of the legislature, must have signatures to the number of 10 per cent of the number of votes cast for governor at the last state election.

A great many people have bills which they think are good, but of whose merits they have never been able to convince the legislature. Neither do they know how to lay their case before the people.

Enter the signature broker.

The signature broker offers to get all the signatures needed to initiate any law, provided he is paid at the rate of 10 cents a signature.

When the bargain is struck, he employs canvassers, whom he pays at the rate of 1 cent to 1½ cents each for signatures, leaving a pretty fair margin of profit.

Slightly Involved. A complaint recently filed in a New York court contains the following averment: "Second: That on the 27th day of August, 1912, the said R. G. B. was duly appointed guardian *ad litem* of P. B. who is an infant by one of the honorable Judges of this Court for the purpose of prosecuting the cause of action herein set up and alleged."

A Liberator. The following legend is printed on the envelopes sent forth by a West Virginia attorney:

After Three Days Return to
JAMES KNOX SMITH
Lawyer and National Jail Robber
Notary Public
Keystone, W. Va.

If there is any pleasure on earth which angels cannot enjoy and which they might almost envy man the possession of, it is the Power of Releasing those in prison and relieving those in distress.

The Law's Delay. Rosa Fritz, a negress, filed a petition for divorce in the district court of Muskogee, Oklahoma, against her husband, Thomas Fritz. She alleged that she married Thomas on the 20th of November, 1907, and that in October he was convicted of murder. Becoming tired of waiting for events to shape themselves, she determined to consult the judge. She accosted him when he was in his office talking with a number of lawyers, saying:

"I wants to talk with the Jedge."

"I am the judge," answered Judge de Graffenried.

"Well, I came down here to see about the Fritz business."

"I suppose you will have to see Judge King about that matter," said Judge de Graffenried, thinking she intended asking for a pardon or a parole for her husband.

"No; I think youall can do. I just wants to see about my divorce."

"Oh! Yes, I can tell you about that, but why don't you wait for a few months? Fritz was sentenced to be hanged, you know, and perhaps the state will attend to the divorce."

"Now look here, Jedge, I has been waiting for more than a year for them to hang that nigger, and it don't look like they is going to do it, and I wants my divorce."

A Competent Witness. Justice Maule is regarded as the leading judicial wit in England. He had doubts as to the credibility of a witness on one occasion, and the man declared that he had been "wedded to the truth" from infancy, says the London Tattler.

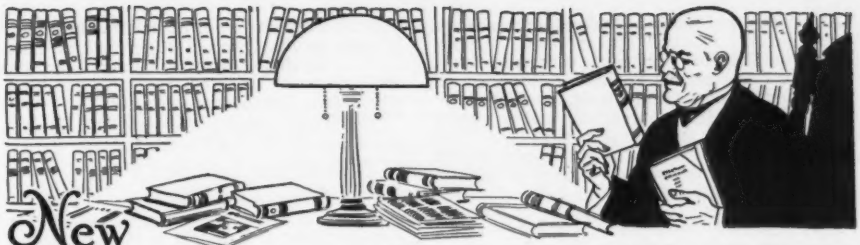
"That may be," said Judge Maule, "but the question is, How long have you been divorced?"

A little girl was a witness before him, and he proceeded to ascertain whether she knew the nature of an oath. The child, in answer to questions, said she would go to heaven if she told the truth, but would go to the other place if she told lies.

"Are you sure of that, my dear?" Justice Maule asked.

"Yes, sir; quite sure."

"Let her be sworn," said the court, "she knows more than I do."



New Books and Recent Articles

"An American Glossary." By Richard H. Thornton of the Philadelphia Bar (J. B. Lippincott Co. Philadelphia.) 2 vols. $7.50 net.

In these volumes the author has collected a large number of "Americanisms," composed of words and phrases of distinctly American origin, or which have survived only in this country, or have here been given a new meaning. These are illustrated, upon historical principles, by giving in chronological order about 14,000 quotations from various publications, and the works of prominent authors in which they appear. The valuable character of the work may be best disclosed, perhaps, by a few quotations. For instance, under Lynch law, Lynching, etc., it is said: The identity of the original "Judge Lynch" is probably beyond discovery. See an examination of the question by Mr. Albert Matthews in Notes and Queries 10 S. xi. 445, 515; xii. 133-5.

1817. In the year 1792 there were many suits on the south side of the James river, for inflicting Lynch's law.—S. Roane in Wirt's Life of P. Henry (1818), 372. (N. E. D.)

1820. No commentator has taken any notice of Lynch's law, which was once the *lex loci* of the frontiers. Its operation was as follows: When a horse thief, a counterfeiter, or any other desperate vagabond, infested a neighborhood . . . the courts formed themselves into a "regulating company," a kind of holy brotherhood, whose duty was to purge the community of its unruly members. Squire Birch (*sic*), who was personated by one of the party, established his tribunal under a tree in the woods, and the culprit was brought before him, tried, and generally convicted.—Hall's Letters from the West, pp. 291-2. (Lond.) etc. etc.

Philadelphia Lawyer. Why members of the Philadelphia bar should be credited with superhuman sagacity has never been satisfactorily explained.

1803. It would (to use a Yankee phrase) puzzle a dozen Philadelphia lawyers to unriddle the conduct of the Democrats. The Balance, Nov. 15, p. 363.

1824. The New England folks have a saying, that three Philadelphia lawyers are a match for the very devil himself.—Salem Observer, March 13.

1824. The New England folks have a saying, that three Philadelphia lawyers are a match for the very devil himself.—Salem Observer, March 13.

1824. The New England folks have a saying, that three Philadelphia lawyers are able to unravel any knotty point, be it ever so hard.—Nantucket Inquirer, March 24.

1825. To puzzle a Philadelphia lawyer is proverbially difficult.—J. K. Paulding, John Bull in America, p. 86.

1837. Will the Editor of the Ledger inform us from whence came the phrase, often used over a knotty subject, it would puzzle a Philadelphia lawyer? (Portlander). This phrase originated in the superior sagacity of our lawyers, and they still preserve the quality.—Phila. Public Ledger, Jan. 26, etc., etc.

Only "Americanisms" of recognized standing or of special interest have been treated. No attempt has been made to register the voluminous outpourings of modern slang.

The work illustrates the great vitality of American modes of speech. It is valuable to the philologist, the lexicographer, the historian, the public speaker, and to anyone curious to know the origin of many words and phrases that have long been in common use, but whose derivation cannot be readily ascertained. It is justified by the tendency noted by Thomas Jefferson when he said: "The new circumstances under which we are placed call for new words, new phrases, and for the transfer of old words to new objects. An American dialect will therefore be formed."

These volumes aptly set forth the genesis and history of this "American dialect." In gleaning this large quantity of material from various and widely scattered sources the author has performed a valuable service.

"A General Survey of Events, Sources, Persons, and Movements in Continental Legal History." By Various European Authors. Translated by Rapelje Howell, F. S. Philbrick, John Walgren, and John H. Wigmore. (Little, Brown, & Co., Boston). $6.00 net.

This is the first volume of the Continental Legal History Series which is being published under the auspices of the Association of

American Law Schools. It gives the connected story of the external history of Continental Law in the four principal countries, Italy, France, Germany and Spain, with excursus on the Netherlands, Scandinavia, and Switzerland. It provides an interesting and necessary introduction to the ensuing volumes of the series, which will deal with the history of the different branches of law and the various countries.

Professor John H. Wigmore states that "no other book of this scope and purpose exists (so it seems) either in the English language or in any other; nor has existed, for a hundred years past or more." It describes the sources of law, the progress of legislation and jurisprudence, the principal codes and jurists, the schools of thought and their influence, and the modern reform movements.

The authors are among the most eminent in their fields: Professor Calisse, for Medieval Law and for Italy; Professor Brissaud, for France and for Church Law; Professors Brunner, Schroder, and Stintzing for Germany; Professor Altamira for Spain; Professor Eugen Huber for Switzerland; Professor Hertzberg for Scandinavia; and Professor J. A. Van Hamel for Netherlands. Three of the chapters have been expressly prepared for this volume; the remainder are selected from the authors' historical treatises already printed.

"During the last thirty years," states the editorial committee in charge of the series, "European scholars have placed the history of their law on the footing of modern critical and philosophical research. And to-day, among ourselves, we find a marked widening of view and a vigorous interest in the comparison of other people's legal institutions.

"All history," said the lamented master Maitland in a memorable epigram, "is but a seamless web; and he who endeavors to tell but a piece of it must feel that his first sentence tears the fabric."

"This seamless webb of our own legal history unites us inseparably to the history of western and southern Europe. Our main interest must naturally center on deciphering the pattern which lies directly before us,—that of the Anglo-American law. But in tracing the warp and woof of its structure we are brought inevitably into a larger field of vision. . . . In short, there is a tangled common ancestry, racial or intellectual, for the law of all western Europe and ourselves."

This initial volume presents a comprehensive story of the Continental law for the past thousand years. In connection with the remainder of the series, it will render for the first time accessible in the English language, a wealth of material of the highest value to all who are interested in the study of comparative law and the advancement of legal science in this country.

"Laws Governing the Exclusion and Expulsion of Aliens in the United States." By Clement L. Bouvé. 1 vol. Buckram, $6.50.

Shepard's "California Citations and Annotations." Covering California Supreme Court Reports, vols. 148–160; California Appeals, vols. 1–17; and Codes. $6.

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Stephenson's "Roman Law." (Student series.) Buckram, $3.

Reed's "Conduct of Law Suits." Reprint of former edition, with Introduction by Prof. John H. Wigmore. Flexible covers, gilt edges, $4.

Shields' "Federal Courts and Practice." Buckram, $6. net.

Kinney on "Irrigation and Water Rights." 4 vols. Buckram, $27.

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"The Law of Domicil."—48 Canada Law Journal, 474.

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"Roads Worth $35,000,000."—World's Work, October 1912, p. 688.

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"Pitfalls for Investors."—National Magazine, September 1912, p. 852.

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"Anomalies in the Law of Light."—133 Law Times, 453.

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"The Minimum Wage."—The Outlook, September 28, 1912, p. 159.

"How Germany Deals with Workmen's Injuries."—27 Political Science Quarterly, 470.

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"City Sense—Cities That Think."—The Outlook, September 28, 1912, p. 209.

Panama.

"The Nation's Panama Exposition."—National Magazine, September 1912, p. 746.

"To Panama for Rest and Fun."—National Magazine, September 1912, p. 840.

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"Our Police Disease."—The Outlook, October 5, 1912, p. 260.

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"Behind the Bars."—The Outlook, September 21, 1912, p. 132.

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"The High Cost of Railroading."—World's Work, October 1912, p. 649.

"The Terminal—The Gate of the City."—Scribner's Magazine, October 1912, p. 401.

"The Problem of the Modern Terminal."—Scribner's Magazine, October 1912, p. 416.

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"President Taft on Socialism and Its Menace."—Century Magazine, October 1912, p. 943.

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"Town-Planning."—76 Justice of the Peace, 433, 445.

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"The United States of America."—The Fra, October 1912, p. 16a.

Woman Suffrage.

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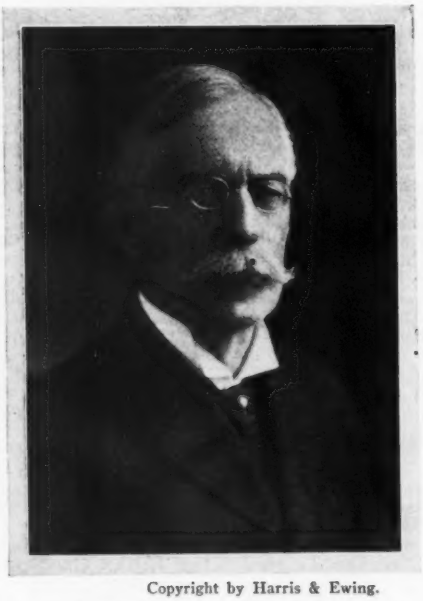
Judges and Lawyers

A Record of Bench and Bar

Hon. Hernando D. Money

SENATOR Money was a man of brilliant attainments, who had earned a national reputation, and was generally revered and respected. His death, on September 18, was due directly to a fall, when he sustained a broken hip and other injuries. He was born in Holmes county, Mississippi, August 26, 1839, and was graduated from the University of Mississippi in 1860, finishing the literary and law courses. He practised law in Carroll county until failing eyesight compelled him to retire from active practice, after which he engaged as a planter in Leflore county. He published the Conservative at Carrollton and the Advance at Winona, Mississippi.



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HON. HERNANDO D. MONEY.

Senator Money entered the Confederate Army as a private in the Eleventh Mississippi Infantry, going with the regiment to Virginia as orderly sergeant in Company B, Twenty-eighth Mississippi Cavalry. He was wounded at the first battle at Franklin, Tennessee, falling on his head and shoulders when his horse was shot under him, on April 10, 1863. He became a prisoner of war and after his exchange was elected lieutenant. He served until September 26, 1864, retiring on account of impaired eyesight.

Senator Money was nominated in 1875 for the National House of Representatives at the age of thirty-five years, receiving a majority on the first ballot. He was then elected to the Forty-fourth Congress and without opposition for four terms, and declined to run for the sixth term, although he had no opposition, in order to practice law at Washington, where he resided for eight years.

On account of the political situation in his own district, Senator Money was induced to enter the race again, and, returning to Mississippi, was nominated over seven candidates and elected to the Fifty-third and Fifty-fourth Congresses.

In January, 1896, he became United States Senator, and his term began March 4, 1896. On October 8, he was appointed to the Senate to fill the unexpired term occasioned by the death of Senator J. Z. George, which occurred August 14, 1897, and in January, 1898, he was elected by the legislature to fill the vacancy. He was then renominated by the Democratic party in 1903 to succeed himself, at the end of which term he had served longer than any other man in Mississippi.

To Senator Money was given the most important assignment of committees ever given any Senator from the state, of which should be mentioned the Democratic steering committee of the Senate, commitee on finance and foreign affairs of the House. He was chairman of the postoffice committee of the House for two Congresses, and on these committees performed most effective work.

Senator Money was never defeated for nomination, and had been a delegate to many national conventions since 1872.

As a member of the National Monetary Commission he rendered signal service to his country, and he was recognized as an expert on matters of finance and on international affairs as well.

Senator Money was succeeded in the Senate by John Sharp Williams at the expiration of his term, in 1910.

Since his retirement from the United States Senate, Senator Money had spent most of his time at his home, near Biloxi, although he had made several trips East on business in connection with his work at a member of the Monetary Commission.

Judge Pearce Honored.

Chief Judge James Alfred Pearce, of the second judicial circuit, composed of the counties of Cecil, Kent, Caroline, Queen Anne's, and Talbot, was recently presented an oil portrait of himself by members of the bar of the circuit.

Hon. Albert Constable, of Elkton, who, after December 1, will succeed Judge Pearce on the bench, presided at the meeting. William S. Evans, president of the Cecil County Bar Association, made the presentation speech, and the formal address was made by William T. Warburton.

In making the presentation Mr. William S. Evans said, in part:

"Judge Pearce, the members of this bar as well as those of the other counties in this judicial circuit sincerely regret that your term of office as chief judge is so nearly ended.

"In view of the eminent services so conscientiously rendered the state as the presiding judge of this circuit and as associate justice of the court of appeals of Maryland, which offices you have adorned by your knowledge of the law, courtesy, and dignity, the members of this circuit feel that your retirement deserves more than a passing notice from those who have had the privilege of practising in your courts, and have taken this occasion to testify their high regard for you as a man and their respect for your great ability and impartiality as a just and upright judge.

"We do, therefore, take this opportunity to present to you a portrait of yourself, which we believe to be a fitting tribute to you, and it is intended as a testimonial of our appreciation and regard."

Mr. Warburton closed with an eloquent and touching tribute to Judge Pearce, in which he said:

"During his entire term there has never been a momentary exhibition of temper on his part nor an unkindly word spoken by him that would wound the most sensitive nature. Gentleness, courtesy, and kindness have been his predominating characteristics. He has always, on the bench, upon the street, in the office, or as a guest in our homes, been the same courteous, kindly, modest, unpretentious gentleman."

Judge Pearce was elected chief judge of the second judicial circuit in 1897, and on December 1 will have served out his full term of fifteen years. He reached the age of retirement two years ago, but

his service was extended by the general assembly of 1910 to the end of the term for which he was chosen.

Judge Collins Passes Away.

Judge Loren W. Collins, former justice of the Minnesota supreme court, and a man of nation-wide repute in the G. A. R., died at his home in Minneapolis on September 27.

Judge Collins had educated himself with the intention of becoming a teacher, and the first money that he earned was in pursuing his profession as a teacher in a country school near Cannon Falls. This was in the winter of 1859–1860. The term was four months, and for his service Judge Collins received $60. While teaching, in 1859, the young man began to study law at Hastings with the firm of Smith, Smith & Crosby. Two years later, however, the call to arms aroused the embryo attorney, and he enlisted in 1862 as a private in Company F in the Seventh Minnesota volunteers.

Shortly before the start of the Sibley expedition against the Sioux, in 1862, Judge Collins was elected second lieutenant of his company. With the seventh regiment he went through the Sibley campaign, which terminated in the battle of Wood lake, when the Indians were routed.

In the fall of 1863 the seventh regiment was ordered south. Returning north at the close of the war, and after he had served six months as a department of treasury agent in Alabama, Judge Collins was admitted to the bar and began practice in St. Cloud in May, 1866. Two years thereafter he formed a law partnership with Charles D. Kerr. This association continued until 1872, when Colonel Kerr moved to St. Paul. In 1879 he formed another partnership with Theodore Bruener. This continued until 1881.

Always active in civic matters and always interested in politics, Judge Collins held several important positions in the service of his fellow citizens. He acted for eight years as county attorney for Stearns county, being the only republican ever elected to county office in that county. He served in the state legislature from 1881 to 1883, when in April he was appointed judge of the seventh district by Governor Lucius F. Hubbard to succeed Judge James McKelvey. In November, 1884, he was elected to the same position, where he served until appointed by Governor A. R. McGill as associate justice of the supreme court to succeed Justice John M. Berry, Nov. 16, 1887. He was elected to the supreme bench in 1888 and twice again.

Five Minutes.

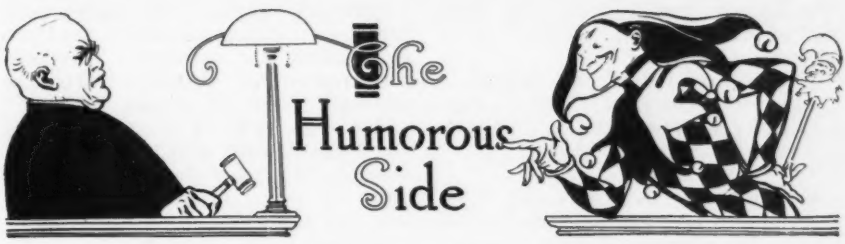
When Judge Bert D. Nortoni, Progressive nominee for governor of Missouri, was a young man he practised law in Macon county.

They love to tell the story in North Missouri of how he won a damage case against the railroad in the courts there. It was on account of a fire which Nortoni's client insisted was set from a spark from a passing locomotive. The defense of the railroad was that the fire could not have started from an engine spark because the building was ablaze within five minutes and this was too short a time for the fire to break out. In his address to the jury Nortoni asked for absolute silence in the courtroom, and then emphasizing the fact that the entire case depended on just how long five minutes really were, he held up his watch.

Never had five minutes seemed so long to a crowded courtroom. The jurors could almost hear the watch ticking, so quiet was the room. Nortoni did not say a word during the five minutes, but held the watch in front of the jury. The silence was the most eloquent speech of the day, and Nortoni won his case.

When Nortoni went to St. Louis as assistant to United States District Attorney D. Pat Dyer, he was put in charge of the naturalization frauds. He sent some of the most notable politicians of St. Louis to the Federal Penitentiary, and since then fraudulent naturalization has been tabooed.

His record as a prosecutor procured him the nomination to the St. Louis court of appeals, and he was elected in 1904, the first Republican member of that court in its history.



The man who cannot laugh is not only fit for treasons, stratagems, and spoils, but his whole life is already a treason and a stratagem.—Carlyle.

Wanted More. A Yorkshire farmer was paid by check for some cattle he had sold. It was the first time it had ever happened.

"What's this?" he said.

"Why, money for the beasts," said the cattle dealer.

The farmer stared and had to be assured that if he took it to the bank they would give him gold for it.

"Well," said he "Aw'll try, but if it's a wrong 'un thou'll hear about it."

The check was cashed, of course, and the farmer went home happy, but he could not sleep. He had seen a wonderful thing and it had excited him. As soon as day broke he made for the cattle dealer's home and woke the dealer.

"It's me," he said. "Where's tha got thim bits of paper from? Aw cud do wi' half a dozen myself!"—Youth's Companion.

Banking in Jawgy. The leading negroes of a Georgia town started a bank and invited persons of their race to become depositors. One day a darkey, with shoes run down at the heels, a gallus over one shoulder, and a cotton shirt, showed up at the cashier's window.

"See here," he said, "I want mah ten dollars."

"Who is yuh?" asked the cashier.

"Mah name's Jim Johnson, an' I wants dat ten dollars."

"Yuh ain't go' no money in dis here bank," said the cashier, after looking over the books.

"Yes, I has," insisted the visitor. "I put ten dollars in here six mont's er go."

"Why, man, yuh shure is foolish. De intrist done et dat up long ago."

Personal Instruction. An old woman walked into a bank in Inverness, threw down her deposit book, and said she wished to draw all her money. Having got it, she retired to a corner of the room and counted it. She then marched up to the teller, and exclaimed: "Ay, that'll doe, ma man; jist pit it back again. I only wanted to see if it was a' richt."—[Dundee News.]

In New York. The stranger entered the bank and approached the nearest teller.

"I want to make a deposit," he said.

The teller looked around cautiously, and when he spoke his voice had dropped to a whisper.

"Savings, commercial or police?" he asked.

Banking on Credit. During the recent financial panic, according to a contemporary, a German farmer went to a bank for some money. He was told that the bank was not paying out money, but was using cashier's checks. He could not understand this, and insisted on money.

The officers took him in hand, one after another, with little effect. At last the president tried his hand, and after long and minute explanation, some inkling of the situation seemed to be dawning on the farmer's mind. Much encouraged, the president said: "You understand now how it is, don't you, Mr. Schmidt?"

"I t'ink I do," admitted Mr. Schmidt. "It's like dis, aindt it? Ven my baby vakes up at night and vants some milk, I gif him a milk ticket."

An Anxious Time. "Did you lose much in that bank failure, Jim?" asked Hawkins.

"I should say I did," said Slabsides. "I had one overdraft of $163 in that bank, and gee! how I had to hustle to make good!"—Harper's Weekly.

Mistaken Order. A baldheaded lawyer came into a downtown barber shop and took his accustomed chair.

"Hair cut, Joe," he said.

The barber looked at him, slapped the nude white dome of his skull with mock tenderness, and gave a loud laugh.

"Why, man" said he, "you don't need no hair cuit. What you want's a shine!"

A Brief Introduction. "Long introductions when a man has a speech to make are a bore," said former Senator John C. Spooner, according to the Saturday Evening Post. "I have had all kinds, but the most satisfactory one in my career was that of a German mayor of a small town in my state, Wisconsin.

"I was to make a political address, and the opera house was crowded. When it came time to begin, the mayor got up.

"'Mine friends,' he said, 'I haf asked been to introduce Senator Spooner, who is to make a speech, yes. Vell, I haf did it, and he vill do it.'"

A Tidal Wave. "The finest political speech I ever heard," said a Pittsburg man, "was made by a German farmer up in Berks county, Pennsylvania.

"There was a meeting in a country schoolhouse, and after the speeches a leading German was called on for a few remarks. He said: 'Fellow citizens: We haf hert d' chin music, yes! Und d' time has now come ven we must all git togedder und undo that vich we haf not dit. . . . All git togedder und roll up such a Democratic majority in Berks coundy that it will roll und roll und roll undil it rolls all ofer Berks coundy, all ofer d' state of Pennsylvania, all ofer d' United States, vill roll across d' ocean, und vill roll up to Emperor Vilhelm vere he is sitting on his throne, und he vill say: "Good gracious! vot a Democratic majority Berks coundy dit roll up."'"

Facts and Figures. "You never hesitate about offering to explain the tariff and banking and currency." "Certainly not," replied Mr. Wiseboy. "You are thoroughly informed on those subjects?" "I don't have to be. I assure my hearers that I can explain it and they take my word for it, rather than hear the statistics I next present."—Washington Star.

Suspicious Routine. A number of men gathered in the smoking car of a train from Little Rock to another point in Arkansas were talking of the food best calculated to sustain health.

One Arkansan, a stout, florid man, with short gray hair and a self-satisfied air, was holding forth in great style.

"Look at me!" he exclaimed. "Never a day's sickness in my life! And all due to simple food. Why, gentlemen, from the time I was twenty to when I reached forty years, I lived a regular life. None of these effeminate delicacies for me! No late hours. Every day, summer and winter, I went to bed at 9 o'clock, got up at 5, lived principally on corned beef and corn bread. Worked hard, gentlemen; worked hard from 8 to 1 o'clock; then dinner, plain dinner; then an hour's exercise; and then"—

"Excuse me," interrupted a stranger who had remained silent, "but what were you in for?"—Housekeeper.

Flowers Quickly Wilted. The case had been concluded, and the attorney who had defended a man on a charge of assault rose to make his final address to the jury which was to decide his client's fate. He was a flowery talker and his argument ran something like this:

"It was a beautiful evening. All nature was smilingly at rest. The birds twittered their farewell to the sun, knowing that the moon would soon be up. And just at this time, gentlemen of the jury, in this peaceful environment, the prosecuting witness came out from behind a billboard and called my client a liar."

The jurors laughed and convicted.—Kansas City Journal.